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In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS

KARLEEN CARLSON STRAYER
October 8, 2003

SUPER CONFIDENTIAL

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CARLSON STRAYER, KARLEEN

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KARLEEN CARLSON STRAYER 16:07:59
A. Yes. 16:08:00
Q. What other factors, if any, 16:08:05
prompted your decision to downgrade the DVOG 16:08:07
entities? I know we've talked about physician 16:08:12
practice, acquisition costs, I'm just trying 16:08:16
to gain a sense as to what else factored into 16:08:19
your decision, if anything. 16:08:21
A. Well, we would have looked at the 16:08:24
overall financial health and the fact that 16:08:26
their balance sheet seems to have weakened. 16:08:28
Q. What's your basis for that last 16:08:36
statement, that their balance sheet seems to 16:08:37
have weakened? 16:08:40
A. Just based on what Dick has 16:08:41
written here in terms of cash falling, cash 16:08:43
declining A/R days behind; that would have, 16:08:47
that alone would have been a reason for the 16:08:52
downgrade. And the debt to cap jumped up. So 16:08:54
those factors together would have also 16:09:00
influenced our decision to downgrade this. 16:09:04
Q. Did you and Mr. Heberton, in 16:09:17
connection with this downgrade announcement, 16:09:20
discuss the possibility of bringing in a 16:09:23
consultant to take a look at the transfer 16:09:29

KARLEEN CARLSON STRAYER 16:09:29
payments that were being made from DVOG to 16:09:33
AIHG? 16:09:37
A. I don't recall. 16:09:39
Q. If you had had such a conversation 16:09:51
with Mr. Heberton, would you expect that 16:09:53
conversation to be reflected in Exhibit 1887? 16:09:58
A. Not necessarily. Might have; 16:10:09
might not have. 16:10:12
Q. Is it more or less likely, one way 16:10:16
or the other, whether such a conversation 16:10:18
would be reflected in Exhibit 1887? 16:10:19
A. Since this is simply an analysis 16:10:24
of the credit, it's -- it wouldn't surprise me 16:10:26
that it wasn't in this. It would more likely 16:10:29
have appeared in the Alert Report because 16:10:32
that's where we typically mentioned what 16:10:35
specific actions we were taking. 16:10:40
Q. Let me show you what I believe is 16:10:44
that Alert Report. 16:10:48
MR. KRUSKO: If we could mark that. 16:10:50
(Deposition Exhibit 2193 for 16:10:50
identification, Alert Report, production 16:11:40
numbers MBIA 029899.) 16:11:40
MR. KRUSKO: For the record, I 16:11:30

KARLEEN CARLSON STRAYER 16:11:30
would note that Exhibit 2193 is one-page that 16:11:31
bears the Bates number MBIA 029899. 16:11:38
Q. Ms. Strayer, do you recognize this 16:11:56
as the Alert Report to which you were just 16:11:57
referencing? 16:12:00
A. Yes. 16:12:01
Q. Did you review this Alert Report 16:12:05
after Mr. Heberton had written it, but before 16:12:10
it went to distribution? 16:12:14
A. Yes, I would have. 16:12:16
Q. And I take it you would have 16:12:19
objected or otherwise stricken out any 16:12:20
statements that you disagreed with? 16:12:23
A. Yes. 16:12:34
Q. Do you recall, in general terms, 16:12:34
who would have been included on this 16:12:35
distribution list? 16:12:36
A. It's the list I mentioned earlier, 16:12:38
our senior management team would have been on 16:12:40
it, our healthcare new business people, all of 16:12:43
the insured portfolio management would have 16:12:47
been on it or at least the public finance 16:12:48
side, our reinsurance people, our attorneys, 16:12:51
potentially our auditors. 16:12:56

KARLEEN CARLSON STRAYER 16:12:56
Q. Alert Reports were generated any 16:13:00
time credit was downgraded to the caution 16:13:04
list, meaning a rating of 6 or below? 16:13:13
A. Yes. 16:13:17
To clarify: The caution list was 16:13:22
6 and there were different names for a 7 and 16:13:25
an 8 and a 9. 16:13:27
Q. And you just anticipated my next 16:13:30
question, which is something I feel 16:13:32
long-winded about: So the caution list is 16:13:35
specific to just the numeric rating of 6? 16:13:38
A. Yes, it was at that time; I 16:13:41
believe they changed the nomenclature today 16:13:43
but at that time, that's true. 16:13:46
Q. And what would a numeric rating of 16:13:48
7 correspond to? 16:13:50
A. I believe that was called a credit 16:13:55
watch-list A. 16:13:57
Q. And a numeric rating of 8 would 16:14:00
corresponds to credit watch-list B? 16:14:02
A. B. 16:14:05
Q. Rating 9, would that correspond to 16:14:06
anything? 16:14:09
A. That was called "classified." 16:14:09

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KARLEEN CARLSON STRAYER 16:14:09

Q. Did that label attach the sort of 16:14:16
layman's definition of "classified" to it; and 16:14:19
by that I mean, did that mean that only 16:14:22
certain individuals were permitted to see that 16:14:26
Alert Report or otherwise view files for that 16:14:27
credit? 16:14:30

A. I, I don't know because it was 16:14:34
such a rare occurrence at MBIA that this was 16:14:36
not a regular ordinary course thing; it was 16:14:39
extremely rare, so I don't know. 16:14:42

I assume we have policy but I 16:14:44
don't know what it was. 16:14:47

Q. What person or what department was 16:14:50
responsible for enforcing that policy in the 16:14:54
1998 time frame? 16:14:57

MR. WITTEN: Objection. 16:14:58

A. I don't even know what the policy 16:14:59
is so I don't, I don't know what department it 16:15:00
would have been. 16:15:03

IPM would have still been 16:15:06
responsible for reporting on the credit; we 16:15:07
would have issued an Alert Report, but in 16:15:09
terms of, you know, at that point there's a 16:15:17
loss, the loss reserve committee has to 16:15:21

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KARLEEN CARLSON STRAYER 16:15:21

establish case loss reserves for that 16:15:24
particular credit and that's a senior 16:15:26
management committee that is specifically 16:15:28
assigned to do that and I'm not aware of what 16:15:32
all the policies were regarding that 16:15:35
committee. 16:15:36

Q. Was the Delaware Valley Obligated 16:15:40
Group ever placed on that list? 16:15:42

A. Yes. 16:15:44

Q. And did you participate in the 16:15:46
process after that point? 16:15:51

A. Yes. 16:15:54

Q. And were you a member of this 16:15:55
committee that you just made reference to? 16:15:57

A. I was not a member of the 16:16:00
committee. The committee is basically our 16:16:01
senior management team. 16:16:03

Q. Okay. So in 1998, with respect to 16:16:04
DVOG, you weren't a member of whatever 16:16:06
committee reviewed the decision to put the 16:16:09
DVOG on the classified list? 16:16:13

A. Well, it was sorts of an -- it 16:16:19
wasn't a judgment call. It went on the 16:16:24
classified list once there was a bankruptcy 16:16:27

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KARLEEN CARLSON STRAYER 16:16:27

filing because we knew there would be a 16:16:29
payment default, so there wasn't any judgment 16:16:31
call about whether or not it should be on 9. 16:16:34

But my, my group downgraded it to 16:16:36
the 9 level and we would have provided reports 16:16:39
to the loss reserve committee; I, myself, was 16:16:43
not a member of the loss reserve committee. 16:16:45

Q. When you say "my group downgraded 16:16:53
it to the 9 level," did that occur on July 16:16:55
21st, 1998, or soon thereafter, if you recall? 16:16:59

A. Yes. 16:17:02

Q. Reference is made in the opening 16:17:15
sentence of the Alert Report to "fierce 16:17:17
competition in the Philadelphia market"? 16:17:22

A. Yes 16:17:25

Q. Is it your recollection that the 16:17:26
Philadelphia healthcare market, in this time 16:17:28
frame, March 1997, consisted of a number of 16:17:32
healthcare providers across the board in terms 16:17:39
of tertiary care hospitals, community 16:17:43
hospitals, teaching hospitals? 16:17:47

A. Yes. 16:17:49

Q. And is it your recollection that 16:17:50
in this time frame, managed-care companies 16:17:52

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KARLEEN CARLSON STRAYER 16:17:52

were both consolidated and growing in power in 16:17:58
the Philadelphia area? 16:18:02

A. They were, they were very powerful 16:18:04
and very concentrated; so I was aware of that. 16:18:07
In terms of their growth, I can't speak, 16:18:10
specifically, but they were very powerful 16:18:12

Q. Do you recall whether they were 16:18:16
becoming more powerful in this time frame? 16:18:18

A. They were negotiating very 16:18:22
aggressively; I do know that. But, you know, 16:18:23
"powerful" is sort of a judgmental -- judgment 16:18:27
call, so. 16:18:33

Q. Is it your recollection that 16:18:35
reimbursement rates, generally speaking, were, 16:18:37
in general decline during this time frame? 16:18:40

A. They were -- yes 16:18:44

MS. HACKETT: Asked and answered, 16:18:46
but go ahead. 16:18:46

Q. In addition to what we just 16:18:52
discussed, can you think of other factors that 16:18:53
went into Mr. Heberton's conclusion that there 16:18:56
was fierce competition in the Philadelphia 16:19:04
market at this time; again, this was a 16:19:08
conclusion that I believe you've testified 16:19:16

KARLEEN CARLSON STRAYER 16:19:16
that you agreed with? 16:19:16
A. I guess the other thing would have 16:19:21 been simply that we have a number of credits 16:19:23 that we insure in that area, so we would have 16:19:26 had knowledge of those -- the performance of 16:19:32 those credits, and I am quite sure we heard 16:19:36 similar comments from a number of our credits 16:19:42
Q. Was that true in March of 1996, as 16:19:46 well, in terms of the amount of business, the 16:19:48 volume of business that MBIA had in the 16:19:51 Philadelphia area market? 16:19:54
A. Oh, in terms of the amount of 16:19:56 business we had? Yes. We would have had, 16:19:57 more or less, the same amount of business in 16:20:00 '96 and '97. 16:20:02
Q. So it was your understanding, 16:20:05 then, in this somewhat broad time frame, 16:20:06 '96/'97, that individuals in the Healthcare 16:20:09 Group on the new business side were familiar 16:20:15 with the Philadelphia area healthcare market? 16:20:17
MR. WITTEN: Objection. 16:20:21
A. They would have done an analysis 16:20:26 of -- they would have reviewed the market 16:20:27 dynamics before insuring the transaction. 16:20:30

KARLEEN CARLSON STRAYER 16:20:30
Q. I guess, just to put a finer point 16:20:34 on it perhaps, where I'm going with this is 16:20:37 just to ask you whether you had an 16:20:40 understanding at the time, given the volume of 16:20:41 business that MBIA was doing in the 16:20:44 Philadelphia area market, whether analysts on 16:20:46 the new business side in the Healthcare Group 16:20:50 had a good understanding of the Philadelphia 16:20:53 healthcare market because of the level of side 16:20:55 that MBIA was doing? 16:20:57
MR. WITTEN: Objection. 16:20:59
A. Well, when I say we had other 16:21:00 credits in the Philadelphia marketplace that 16:21:02 we insured, it doesn't mean that we insured 16:21:04 them in 1996 and 1997. 16:21:08
Most of our bond issues are 16:21:10 30-year transactions, so we would have insured 16:21:12 something in the early '80s and this would 16:21:15 have still been in place in '96 and '97. So I 16:21:17 don't recall specifically how much new 16:21:21 business we would have been booking around 16:21:22 that time in that market. 16:21:25
Q. But the monitoring functions are 16:21:26 continuous -- 16:21:29

KARLEEN CARLSON STRAYER 16:21:29
A. Yes. 16:21:30
Q. -- during the term of the bond 16:21:31 insurance policy? 16:21:32
A. Yes. 16:21:33
Q. So it's fair to say that MBIA's 16:21:34 Surveillance Department of the Healthcare 16:21:37 Group was well familiar with the Philadelphia 16:21:41 area healthcare market in this time frame, 16:21:43 March 1997? 16:21:46
A. We were, we were familiar with 16:21:49 certain aspects of the market as they affected 16:21:50 the credits that we insured, yes. 16:21:54
Q. Were you unfamiliar -- excuse me. 16:21:55
Was the Healthcare Group in the 16:21:58 Surveillance Department unfamiliar with any 16:21:59 aspects of the Philadelphia healthcare market? 16:22:02
A. Of course. I mean, it's a very 16:22:05 complex market. 16:22:07
Q. Okay. 16:22:07
A. So, you know, there were different 16:22:08 dynamics that would affect our credit. 16:22:13 Specifically, we would have, we would have 16:22:17 understood but healthcare is just an extremely 16:22:19 complex business and there are many, many 16:22:21

KARLEEN CARLSON STRAYER 16:22:21
things I'm sure we did not understand. 16:22:24
Q. Okay. And with respect to the 16:22:26 complexity of the healthcare business, I take 16:22:29 it that's particularly true with respect to 16:22:32 the Philadelphia area healthcare market at 16:22:34 this time? 16:22:37
A. Philadelphia was one of the 16:22:37 markets that had very aggressive competition 16:22:40 in, in, you know, as you said, powerful 16:22:43 managed-care plans; so, it was one of the 16:22:48 markets that we would track, yes. 16:22:51
Q. Can you identify anything about 16:22:55 the Philadelphia area market that you learned 16:22:58 in this general time frame; and again, I'm 16:23:01 speaking about you, personally, in March 1997, 16:23:04 that you didn't know beforehand? 16:23:07
A. That I didn't know beforehand? 16:23:11
Q. Yes. 16:23:13
A. It's hard for me to recall what 16:23:14 specifically I learned in '96, '97 versus 16:23:16 other years. 16:23:19
Q. I understand. I guess where I'm 16:23:20 going with this is you testified that there 16:23:22 were -- when I asked you whether there were 16:23:24

things that MBIA's Surveillance Department, 16:23:25 the Healthcare Group, was unfamiliar with 16:23:28 respect to the healthcare market, I believe 16:23:30 you testified "of course." 16:23:32

A. Um-hum. 16:23:34

Q. And I'm just trying to gain an 16:23:34 understanding as to what nuances or what 16:23:36 complexities in this market the Healthcare 16:23:38 Group in the Surveillance Department didn't 16:23:42 understand in this time frame, March 1997. 16:23:43

A. What we didn't understand? I'm, 16:23:47 I'm not quite sure how to answer that 16:23:57 question. If we didn't understand it, I mean, 16:24:00 we maybe didn't know that we didn't understand 16:24:08 it. 16:24:10

I'm not very clear on the 16:24:11 question. I'm sure there's a lot of things we 16:24:12 didn't understand. 16:24:14

Q. Right, but now you have the 16:24:15 benefit of hindsight, correct? 16:24:17

A. Right. 16:24:19

Q. The DVOG entities filed for 16:24:19 bankruptcy in July of 1998, correct? 16:24:21

A. Yes. 16:24:24

Q. And I assume some sort of review 16:24:26 was conducted by MBIA as a result of that 16:24:26 bankruptcy filing as to what had gone on with 16:24:29 respect to the monitoring efforts? 16:24:33

MR. WITTEN: Objection. 16:24:35

A. I don't know that we did a 16:24:37 specific review. I mean, we certainly had 16:24:38 various constituents we had to report to in 16:24:50 terms of how we were handling the situation, 16:24:50 so we would have been doing reports to senior 16:24:50 management, to investors. It was a 16:24:50 high-profile case and we had a lot of 16:24:54 reporting we needed to do. So, yes, that is 16:24:56 something that, that we would have done. 16:24:58

Q. I'm not trying to trick you, I'm 16:25:02 just saying I assume something of this 16:25:04 magnitude there would have been sort of a 16:25:07 lessons-learned review. 16:25:07

A. Oh, sure. 16:25:10

Q. Right, okay. And with the benefit 16:25:11 -- let me just ask you just to lay a 16:25:13 foundation: Did you participate in any way of 16:25:15 that review as manager of the Healthcare Group 16:25:18 in the Surveillance Department? 16:25:20

A. Well, I wouldn't -- 16:25:24 lessons-learned is sort of a theme that our 16:25:27 Surveillance Group had, so it would not have 16:25:32 been one specific thing that we did; it would 16:25:35 have been a broader-type of response. 16:25:38

So we would have had, we would 16:25:44 have tried to communicate to other people in 16:25:46 surveillance what we learned in doing the 16:25:48 AHERF remediation, that is true. 16:25:51

Q. Right, right. And to communicate 16:25:53 what you learned because of the AHERF 16:25:56 remediation, you would have had to at some 16:25:58 point, after the bankruptcy, looked back and 16:26:01 conducted some sort of review of what happened 16:26:03 with respect to the remediation efforts? 16:26:07

A. Yes. 16:26:09

Q. And I am just simply asking, based 16:26:11 on that review you say you conducted, what you 16:26:15 learned during the course of the remediation 16:26:18 work that you did that you didn't know in 16:26:24 March of 1997? 16:26:28

A. Okay. I think -- probably the 16:26:33 major thing I would -- that in retrospect we 16:26:36 learned was that during this time period there 16:26:41

was a lot of merger activity going on in the 16:26:45 healthcare industry, in general, it was a very 16:26:49 common thing for entities to merge in response 16:26:50 to for-profit competition. 16:26:53

And so, AHERF was an example of an 16:26:57 entity that looked to us like a combination 16:27:00 that would eventually become one, one group, 16:27:07 over time, as the East and the West came 16:27:11 together, and in fact there were 16:27:15 representations made that that was the plan 16:27:17 that management had at one time. 16:27:22

And we, we took some comfort from 16:27:25 the assurances that management made to us that 16:27:29 those were the plans. 16:27:32

In retrospect, because of the 16:27:36 seriousness of the financial problems, those 16:27:38 plans never materialized, and so, something 16:27:41 that we had been, at least for some period of 16:27:43 time, counting on never transpired; so, that, 16:27:46 to some extent, was a lesson learned. 16:27:53

There are many other lessons we 16:27:56 learned and, as time goes on, those -- our 16:27:58 perspective on those issues evolve so I can't 16:28:02 -- you know, it depends on what year you ask 16:28:06

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KARLEEN CARLSON STRAYER 17:13:29
A. Yes. 17:13:32
Q. All of those scenarios have 17:13:35
financial impacts for MBIA, because MBIA had 17:13:38
provided bond insurance for the DVOG bonds and 17:13:42
for bonds issued on behalf of AGH, correct? 17:13:45
A. Well, it would have a financial 17:13:49
impact for the entity that has the cash 17:13:50
flowing in and out. It wouldn't necessarily 17:13:55
have impact on MBIA unless, of course, we had 17:13:57
a bankruptcy or inability to make debt 17:14:00
service. 17:14:03
Q. Or a bond covenant? 17:14:04
A. Or a bond covenant default, yes. 17:14:06
Q. At this point in time, the DVOG 17:14:09
was experiencing financial difficulties? 17:14:11
A. Yes. 17:14:14
Q. As reflected by the Alert Report 17:14:15
that we just saw? 17:14:18
A. Yes. 17:14:21
Q. What, if any, steps did you take 17:14:24
to get to the bottom of what's being described 17:14:26
here? 17:14:29
A. We were, during this time period, 17:14:31
having very frequent conversations with Dave 17:14:33

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KARLEEN CARLSON STRAYER 17:14:33
McConnell and Mike Martin and, I believe, 17:14:36
other people at DVOG, primarily David, 17:14:40
Mr. McConnell and Mr. Martin. 17:14:46
We were asking for reports and, 17:14:51
again, I cannot specify the exact time frame 17:14:53
we were doing these things but we were having 17:14:57
more frequent meetings with them 17:14:58
This was a very -- this was 17:15:09
becoming a very active remediation at this 17:15:09
point in time; there was a lot of activity 17:15:09
going on with this and a lot of many, many 17:15:09
conversations occurring. 17:15:11
Q. These statements that are 17:15:13
contained in this passage, the last paragraph 17:15:14
on the first page of Exhibit 2194, have 17:15:17
serious ramifications for MBIA, correct? 17:15:21
MR. WITTEN: Objection. 17:15:25
A. Could you clarify your question? 17:15:31
Q. Okay. This transferring around of 17:15:33
funds from one obligated group to another 17:15:41
that's described here could have serious 17:15:43
ramifications for MBIA, given that MBIA, 17:15:46
again, had insured DVOG and AGH bonds? 17:15:50
A. Well, you know, just given what 17:15:55

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KARLEEN CARLSON STRAYER 17:15:55
Dick and Chip are describing here, it's clear 17:15:58
they see this as sort of a double-edge sword 17:16:01
in that we did view at that time AGH as a 17:16:06
strong entity; and, so, the fact that they 17:16:09
were moving cash out of the West to support 17:16:12
the East, while we did not like the fact that 17:16:15
they were not -- they were sort of 17:16:18
disregarding the integrity of the obligated 17:16:19
group, if the cash transfers were going that 17:16:23
way, it did benefit us. So there was, there 17:16:24
was a positive to what they were doing. 17:16:28
Now, the risk, as you mentioned 17:16:31
earlier, is that the cash could go back out 17:16:33
and, in fact, that did eventually happen. 17:16:35
But, at this point in time, it appears that 17:16:37
they are supporting the East with the West and 17:16:41
that, that did give us a little bit of 17:16:44
comfort, I think. 17:16:46
Q. Right. But additional money was 17:16:48
being taken out of DVOG to fund the physician 17:16:49
practice acquisition strategy that was being 17:16:52
pursued by AHERF at this point in time? 17:16:54
MS. HACKETT: Objection, asked and 17:16:56
answered. 17:16:57

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KARLEEN CARLSON STRAYER 17:16:57
You can answer. 17:16:59
A. It's true, but those were -- I'm 17:17:02
sure that DVOG people would have called those 17:17:05
"investments," in that they -- you know, it 17:17:08
wasn't just cash being transferred out for no 17:17:11
reason, it was cash they were transferring 17:17:14
out, assuming that they would increase their 17:17:17
volume by doing so. So, you know, the 17:17:19
strategy ended up not being effective but that 17:17:22
was their plan and had their plan worked we 17:17:25
might not have been that troubled by those 17:17:28
transfers. 17:17:30
Q. My understanding is that as 17:17:34
manager of the Healthcare Group in the 17:17:37
Surveillance Department, when you were 17:17:41
confronted with the remediation, you first 17:17:41
started your responsibility to have 17:17:47
discussions with the CFO, correct? 17:17:48
A. We frequently did. 17:17:52
Q. I'm talking about yourself, 17:17:53
though, as manager? 17:17:56
A. As manager? 17:17:57
Q. Yes. 17:17:58
A. It would depend on the extent of 17:17:58

KARLEEN CARLSON STRAYER 17:17:58
the people and the majority of the analyst 17:18:01
that was assigned to that particular credit. 17:18:03
Q. Let me ask you this more 17:18:05
generally: To the extent you received answers 17:18:06
from the CFO that you weren't happy with, was 17:18:08
it your practice, as manager of the Healthcare 17:18:11
Group in the Surveillance Department, to then 17:18:14
take the matter up with the entity's CEO? 17:18:15
A. Yes; although, I would -- it 17:18:22
wasn't necessarily that we weren't happy with 17:18:25
the answers. We, you know, as -- as we became 17:18:27
aware of more financial difficulty, it would 17:18:35
be neutral for us to sort of increase the 17:18:38
seniority of the individuals we were talking 17:18:40
with; so a next step would have been the CEO 17:18:42
after the CFO. 17:18:46
Q. Okay. After you received this 17:18:47
Call Memorandum, Exhibit 2194, did you attempt 17:18:50
to contact Sherif Abdelhak, the CEO of AHERF? 17:18:54
A. I believe that after this point we 17:19:01
did try to organize a meeting with him and 17:19:04
some others, and I cannot be specific on the 17:19:09
time frame, I'm not sure, but we did have a 17:19:12
meeting planned. 17:19:15

KARLEEN CARLSON STRAYER 17:19:15
We flew out to -- first we met in 17:19:16
Philadelphia with some people and then we flew 17:19:20
out in Pittsburgh, and I believe it was in 17:19:23
Pittsburgh we were supposed to meet with 17:19:25
Sherif Abdelhak, and when we arrived we were 17:19:29
told that he had an emergency and could not 17:19:31
meet with us; so it was actually at a later 17:19:32
meeting that we ended up meeting him. 17:19:35
Q. When was that first meeting 17:19:38
scheduled for, if you know? 17:19:41
A. I don't recall exactly. There's 17:19:42
probably a memo about it somewhere. 17:19:43
Q. Do you recall the year? 17:19:46
A. The first meeting? 17:19:47
Q. No. Just to be specific -- the 17:19:48
first meeting in terms of the one where you 17:19:51
flew out and Mr. Abdelhak said that he wasn't 17:19:53
available and you weren't able to meet with 17:19:57
him, was that '97 or '98? 17:19:59
A. I think '97. 17:20:02
Q. But you're not certain? 17:20:10
A. I'm not certain. 17:20:11
Q. Do you recall how much time 17:20:13
elapsed between your first attempt to meet 17:20:14

KARLEEN CARLSON STRAYER 17:20:14
with Mr. Abdelhak and the second time? 17:20:16
A. I'm not sure how much time there 17:20:21
was. But I should point out during this time 17:20:23
we're having a lot of conversations with David 17:20:28
McConnell and Mike Martin, and they are 17:20:38
providing us with lots and lots of 17:20:38
information, we're getting a lot of 17:20:38
information from them. 17:20:40
Q. Right. 17:20:41
A. So I think our purpose in meeting 17:20:42
with Sherif was more to make a point than to 17:20:45
ask questions. We weren't trying to get 17:20:49
necessarily more information from him; we were 17:20:52
trying to convey a message to him. 17:20:54
Q. In terms of lots and lots of 17:20:56
information, I take it you mean lots and lots 17:20:58
of unaudited financial information? 17:21:01
A. And a lot of phone calls. So we 17:21:05
would, we were doing a lot of phone calls with 17:21:07
the financial folks at AHERF to understand the 17:21:09
numbers that we had and what was going on. 17:21:13
Q. So possibly some projections? 17:21:15
A. Possibly. 17:21:19
Q. But no additional audited 17:21:21

KARLEEN CARLSON STRAYER 17:21:21
financial information, because again, the DVOG 17:21:23
was on a June 30 fiscal year? 17:21:29
A. Well, we eventually got the 1997 17:21:32
financials, audited financial statements, but, 17:21:36
yes, we only got the audits as they came due. 17:21:41
Q. So in this time frame, April 1997, 17:21:43
the lots and lots of information you're 17:21:46
receiving is unaudited financial information, 17:21:49
amongst other information? 17:21:51
A. Yes. 17:21:54
Q. Earlier you testified that with 17:21:56
respect to Sacred Heart Hospital you 17:21:58
personally met on at least three occasions 17:21:59
with the Sacred Heart Hospital Executive 17:22:02
Committee, correct? 17:22:06
A. Yes. 17:22:07
Q. And the Executive Committee was 17:22:08
comprised of trustees for Sacred Heart 17:22:09
Hospital? 17:22:13
A. Yes. 17:22:14
Q. On receiving this memorandum, did 17:22:15
you make any attempt to meet with the AHERF 17:22:17
board to discuss this surreptitious moving of 17:22:21
funds as described here? 17:22:25

KARLEEN CARLSON STRAYER 17:22:25
A. I don't believe so. 17:22:27
Q. Why not? 17:22:27
A. Because, for several reasons: 17:22:32
There -- I believe we had the view that the 17:22:36
problem was still controllable because some of 17:22:39
the, some of the things, for example, in the 17:22:44
prior memo, referred to the fact that the 17:22:46
physician -- the payments to the physicians 17:22:49
were yielding increased volume, we saw that as 17:22:51
a good sign. 17:22:55
I believe in this memo it says 17:22:56
that the physician acquisition strategy had 17:22:57
stopped. And so, we felt that some of the 17:23:01
things -- some of the negative financial 17:23:05
affects of their reorganization and physician 17:23:08
acquisition strategy were at an end and there 17:23:12
would, perhaps, be some stability in the 17:23:17
system. 17:23:20
We were, in some sense, viewing 17:23:21
these cash transfers as a mitigant to us on 17:23:24
the DVOG side; so we wouldn't, we wouldn't at 17:23:27
this point have gone to the board to complain 17:23:31
about this because at this point the movement 17:23:34
of the funds was actually helping us; so we 17:23:36

KARLEEN CARLSON STRAYER 17:23:36
wouldn't go to the board to try to stop that 17:23:41
from happening. 17:23:42
Q. Was there any guarantee at this 17:23:43
point in time that the movement of funds 17:23:45
described in Exhibit 2194 was going to 17:23:47
continue to help the DVOG? 17:23:50
A. Well, there was no guarantee. 17:24:00
There was a representation that, by the CFO 17:24:02
here, that he moved around funds as necessary, 17:24:06
but there were certainly no guarantee that he 17:24:09
was going to do that. 17:24:13
Q. Did you attempt to get such a 17:24:14
guarantee from Mr. McConnell or anyone else at 17:24:16
AHERF? 17:24:21
A. I don't know that, other than an 17:24:25
amendment to the bond documents, whether any 17:24:29
sort of guarantee would have been, would have 17:24:33
been something we could count on. 17:24:41
I mean, we would have needed a 17:24:43
contractual obligation from them, so we would 17:24:45
have had to have them amend the bond documents 17:24:47
in some fashion, I assume, and no, that wasn't 17:24:50
anything we asked for specifically. 17:24:54
Q. Did you or did anyone on your 17:24:57

KARLEEN CARLSON STRAYER 17:24:57
staff undertake any investigation to determine 17:25:01
whether the bond documents could be amended in 17:25:02
the way you're describing? 17:25:05
A. No, we didn't. 17:25:08
Q. Why not? 17:25:09
A. Because I think -- a lot depends 17:25:13
on what time period you're talking about. 17:25:16
Q. I'm talking about in the time 17:25:18
frame of this memorandum, April 30th, 1997. 17:25:19
A. April. Well, I think it's 17:25:25
important to remember that our view at this 17:25:29
time, while we were very concerned with the 17:25:30
cash position, we -- our understanding was 17:25:33
that DVOG, DVOG in and of itself, entities 17:25:36
operating within that system, were profitable. 17:25:44
And that the problem was, the severity of the 17:25:46
problem was really caused by the physician 17:25:49
practice plan. And we viewed that as something 17:25:52
that could be controlled, to some extent. 17:25:54
So it was -- you know, we did not 17:26:00
view this as the operating entities within 17:26:01
DVOG were bleeding and needed the West 17:26:03
support; we viewed this as a specific problem 17:26:06
caused by the physician acquisitions. 17:26:09

KARLEEN CARLSON STRAYER 17:26:09
Q. And again, you personally believed 17:26:12
that this was a controllable problem? 17:26:14
A. We felt, at least as, you know, at 17:26:17
April 1997, that this was a situation that 17:26:22
AHERF management team could correct, yes. 17:26:27
Q. I'm specifically asking you 17:26:32
whether you personally thought that MBIA could 17:26:33
"control" this problem? 17:26:39
A. MBIA could control this moment. 17:26:41
Q. Yes, you several times used the 17:26:51
phrase "controllable problem." 17:26:51
A. No, MBIA had no control rights 17:26:51
whatsoever. We had no breach of a covenant. 17:26:51
We had -- you know, we never have the ability 17:26:53
to control management. 17:26:54
Our rights and remedies always 17:26:55
come through the bond documents, through the 17:26:57
covenants and nothing had been breached. 17:26:59
Q. So this -- 17:27:01
A. We had no rights. 17:27:02
Q. So the surreptitious moving of 17:27:03
funds described here was a controllable 17:27:08
problem, "controllable" meaning on the part of 17:27:10
AHERF, AHERF could control this? 17:27:13

TAB 263

In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS, LLP

RICHARD HEBERTON
January 15, 2004

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already made transfers equal to 32 million in the first six months ending 12/31/96. " Do you see that?

A. Yes.

Q. Basically you're analyzing the transfers to be roughly 56 million --

A. Correct.

Q. Did you contact Mr. McConnell with that discrepancy?

A. I don't remember.

Q. Were you concerned about that discrepancy?

A. Yes.

Q. Did you act on that concern in any way after this meeting, if you recall?

A. Did I act on it. No. Not that I can recall. I'm not really sure if I know what you mean by acting on it.

Q. I'm just wondering if you acted on that concern in any way. In other words, do you recall raising it with someone at AHERF or --

A. Oh, at AHERF? I don't know. I certainly was raising it internally at MBIA through this document.

Q. Do you recall any feedback from Ms. Strayer or Mr. Mathis with respect to this issue?

A. No.

Q. You and Mr. Reilly have written that Mr. McConnell represented to you that the physician acquisition program is now completed. Do you see that? It's the second line from the bottom there.

A. Yes.

Q. If you'd turn with me to page 029902, the last page of the document, do you see the subheading "cap ex"?

A. Yes.

Q. Here you have written, "There are no major acquisitions planned at this time. They do not want any more beds or buildings at this time. However, they continue to buy -- they continue to look to buy practices." Do you see that?

A. Um-hum.

Q. That last statement contradicts the passage that we just read on the first page of Exhibit 2194, correct?

A. Yes.

Q. So I take it Exhibit 2194 reflects the confusion that you spoke about earlier that you had at this time in terms of whether AHERF had in fact completed its physician practice acquisition strategy or was continuing to buy physician practices.

MR. WITTEN: Objection to form.

MS. SPRINGER: Objection.

A. I don't know if that's what that's saying. That might just be a -- it could be that's a typo. I'm not sure what -- I don't recall trying to imply something through those two statements.

Q. What could be a typo?

A. Well, one says it's completed and one says it's continuing to buy practices. So I don't remember why that's two different statements. My memory is that they were not completed and that we were expecting additional expenditures. Maybe winding down, maybe that would have been a better way of saying it. That's obviously not what was said.

Q. Do you recall more generally, though,

being uncertain in this time frame as to where exactly the physician practice acquisition strategy stood?

A. Yes.

Q. Even if AHERF's physician practice acquisitions were to stop this very day, April 24th, 1997, did you understand at the time that AHERF could call upon the DVOG at any time to support the ongoing operations of practices it already acquired?

A. I don't recall if there was some sort of legal requirement or not that the DVOG would have to support the physician practices. My recollection is that the expense of supporting the physician practices would drain money from the DVOG. But I can't remember whether it was a legal requirement or not.

Q. Perhaps the question was a little unclear. I wasn't trying to allude to any sort of legal requirement. I was simply asking you whether you understood that AHERF, the parent corporation, had the ability to use DVOG funds to support practices that had already been acquired by AHERF.

A. I think that was true.
Q. Do you recall discussing that issue, ongoing support for previously acquired practices, with Mr. McConnell?
A. Yes, I think so.
Q. And did he indicate to you that the DVOG would continue to support the previously acquired physician practices?
A. I can't remember exactly what he said.
Q. Did you ask him for any sort of commitment that AHERF not take funds from DVOG to support previously acquired physician practices or limit the amount of money it would take from the DVOG to support previously acquired physician practices?
A. I don't recall.
Q. At this meeting Mr. McConnell represented to those in attendance that AHERF managed cash on a system-wide basis rather than by hospital or obligated group as reflected here on the first page at the bottom.
A. Um-hum.
Q. Then you and Mr. Reilly have written,

"The CFO has described how he moved the funds around the system as necessary. He plans to utilize the system's resources to support those areas most in need. He even indicated a willingness to play with overhead charges to move funds surreptitiously. While it is encouraging to hear that the large resources available elsewhere in the system may be available to ADVOG, the CFO's disregard for the integrity of the individual obligated group's financial statements was disconcerting."
A. Um-hum.
Q. I take it you were very concerned when you heard these statements from Mr. McConnell.
A. I think it led us to have some concerns over the integrity of management.
Q. Did you seek to have a meeting with the CEO of AHERF, Sherif Abdelhak, in light of Mr. McConnell's comments and your concern about his integrity?
A. I think I do remember us trying to get meetings with the CEO just for all the issues that we were concerned about. I don't believe we

ever did have a meeting with him, at least not when I was working on the credit.
Q. But is it your recollection that these comments served as the impetus for a request from MBIA that MBIA have a meeting with Sherif Abdelhak?
A. I don't remember.
Q. Did you try to meet with the AHERF board of trustees in light of your concern about Mr. McConnell's integrity?
A. No, I don't think we did at that time.
Q. Why not?
A. I don't know if our concern had been raised to that level yet. Meeting with the board was something that we did typically more with the credits once they were on the 7 or 8 levels. This one we were still trying to learn more about as opposed to having made a decision that a loss was potentially likely.
Q. That's a little formalistic though, right?
A. What do you mean?
Q. Well, adhering to a numeric rating.

A. No, the numeric rating implies the immediacy of our concern.
Q. Earlier you discussed conversations you had with Ms. Strayer about downgrading the DVOG to 7-B and not 6-B, correct?
A. Um-hum.
Q. So in light of these statements did you believe that it would be prudent to downgrade the DVOG to 7-B?
A. I think we were still at this point trying to learn more, trying to understand the situation better. Even though we were seeing numerically some problems with the system we knew all hospitals were having difficulties at that time. And we certainly still saw certain good things about DVOG in terms of its size and importance to the Philadelphia and Pennsylvania markets. And as we noted before, the fact that they had a healthy parent, that weighed into how we were approaching the remediation efforts at that time.
Q. Given your concerns about Mr. McConnell's integrity, I take it you were concerned that the F/Y '96 audited financial

statements for the DVOG might not be accurate.
A. I don't think I took it that far. Maybe I should have. But there's degrees -- I mean, I don't think I left the meeting going I can't trust this person at all, maybe this is something to watch for as we continue to have discussions.
Q. Fair to say it was a red flag?
A. That's a good way to put it.
Q. Did you seek to meet with AHERF's external auditors to, to use your phrase, learn more and understand the situation better, given the concerns you had about Mr. McConnell's integrity?
A. That sounds familiar. I don't specifically remember meeting with the auditors. Maybe we had a conversation on the phone. That sounds familiar, but I don't remember specifically.
Q. But do you remember making that request of AHERF, you personally?
A. My recollection is quite -- is really vague on that. That sounds right. I can't quite picture a document or a call that included that,

but I think that was what happened. But I'm kind of guessing.
Q. You just don't know one way or the other.
A. Yes, I just don't remember. It was a long time ago.
Q. Do you recall in this time frame who AHERF's external auditors were?
A. No.
Q. A few moments ago you stated that maybe you should have been more concerned about Mr. McConnell's statements than you were.
MR. WITTEN: Objection.
Q. Why did you say that?
MR. WITTEN: Excuse me, objection.
A. Simply because the hospital system eventually went bankrupt.
Q. Is that something you wish you had done, had been more concerned?
A. I certainly wish we were more concerned at an earlier stage. It may have led to a better outcome.
Q. Do you recall whether Mr. McConnell represented to you and others in attendance at

this meeting that AHERF, the system, would continue to support the DVOG with cash transfers from other AHERF affiliates?
A. Could you say that again?
Q. Sure.
A. Okay, say it again.
Q. I take it the purpose of this meeting, as you stated earlier, was to address concerns you had about cash flow at the DVOG and the transfers out of DVOG.
A. Yes.
Q. In connection with addressing those concerns, did Mr. McConnell represent to those in attendance that AHERF's other affiliates would continue to support the DVOG and therefore there was no real need to be concerned about short term transfers out of the DVOG?
A. I think it was more that there was the potential for that to occur if it was needed. I don't think it was necessarily as strong as like there was an assurance that that would happen. But that remained a possibility.
Q. Represented more as a safety net?
A. Yes. Right, that they would not

strictly follow the fact that the obligated group was on its own and no help would come from the rest of the system. So some level of support may be available but there wasn't a requirement for it, nor was there a restriction against it.
Q. Did you or did anyone at MBIA to the best of your knowledge follow up with Mr. McConnell to try to make that representation more concrete in any way?
A. I don't recall.
Q. Do you recall anyone at MBIA requesting that AHERF put that commitment in writing?
A. No, I don't remember that.
MR. KRUSKO: Let's go off the record.
THE VIDEOGRAPHER: Going off the record. The time is 12:18 p.m.
(Luncheon Recess: 12:18 p.m.)

TAB 264

In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS, LLP

CHARLES E. REILLY
November 21, 2003

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Q. Do you recall being concerned as a result of this meeting that AHERF could be using funds that would otherwise be used to support AGH?
A. Yes.
Q. And why were you concerned about that?
A. Because we were concerned that they were using the funds as if it was an easy resource to take from one part of the system and allocate to another and buy them time. And if their strategy proved to be wrong, or to cause losses, there would be less financial strength from where the assets were transferred from.
We looked at DVOG, we looked at AGH and we looked at AHERF and we watched the transfers. And we were concerned about each entity and we were concerned about the total entity, and we were concerned about all the transfers.
Q. Did Mr. McConnell at this meeting make any representations that asset transfers generally could also benefit DVOG in that money could be transferred into DVOG from other AHERF

affiliates?
A. Yes.
Q. And did you take that as a positive?
A. Yes. But there was no commitment. So it's not something you can bank on.
Q. Did you relay Mr. McConnell's statements to Ms. Strayer?
A. In the memo, yes.
Q. Did Ms. Strayer contact you about this memo?
A. She was right next to me. Her office is right next to me. So we discussed it.
Q. And what did Ms. Strayer say to you about this memorandum and the meeting more generally?
A. She acknowledged the memo, the meeting and shared our concerns.
Q. At this point in time did you believe the general transferring of money across the AHERF affiliates was going to benefit the DVOG in the long-run, harm the DVOG in the long-run or had you not formed an opinion one way or the other?
MR. BROWN: Objection.

A. We had not formed an opinion. The magnitude concerned us.
Q. You and Mr. Heberton I believe have used the word "surreptitiously." Why did you choose that word? I don't want to turn this into sort of a grammar test. I'm just trying to get a sense as to what you were trying to convey to the reader by discussing surreptitious transfers.
A. We did not have a lot of comfort that David was extremely disciplined about managing each respective obligated group so that it would support itself. Because that's the way these things are built. They're supposed to support themselves.
And by moving money around from one obligated group to another is -- in one way there might be business to conduct, but in one way you could be damaging another entity. And we thought that the way he characterized it was a little too casual.
Q. In light of your concerns about Mr. McConnell, did you attempt to raise this issue with Mr. Abdelhak, the CEO of AHERF?
A. We did.

Q. And when did you do that, if you recall?
A. When we met with him.
Q. Do you recall when you met with him?
A. Not specifically. But it was after this meeting. It was the same day we met with the board members I believe.
Q. Let me show you what we've previously marked as Exhibit 1667.
A. Okay.
Q. Just for the record I would note that this document, Exhibit 1667, is entitled "site visit memo, May 4, 1998" to David Stevens and Pat Mathis from you, Mr. Reilly, and Ms. Strayer, is that correct?
A. Right.
Q. And in this memo, among other things you and Ms. Strayer attempt to summarize the meeting that you and others had with Mr. Abdelhak, is that correct?
A. Yes.
Q. And this meeting occurred on May 4, 1998, is that correct?
MR. WITTEN: Objection.

MR. BROWN: Objection.
Q. Withdrawn, I apologize.
This meeting occurred on the 29th of May 1998, correct?
A. Right.
MR. BROWN: Objection.
MR. WITTEN: Objection.
MR. BROWN: You have the wrong month. April.
MR. KRUSKO: I apologize. I apologize.
Q. So the record's clear, this document, Exhibit 1667, is entitled "site visit memo, May 4, 1998," is that correct?
A. Yes.
Q. And this memo attempts to summarize a meeting that you, Ms. Strayer and others had with Mr. Abdelhak, among others, on April 29th, 1998, is that correct?
A. Yes.
Q. Is this the meeting with Mr. Abdelhak that you are recollecting?
A. Yes.
Q. Your meeting with Mr. McConnell

occurred on April 24th, 1997. And by that I mean the meeting we were just discussing where Mr. McConnell made some representations about asset transfers, correct?
A. Yes.
Q. So if I understand you correctly, over a year elapsed before you or anyone else at MBIA, to the best of your knowledge, raised asset transfer concerns with Mr. Abdelhak.
MR. BROWN: Objection. Lack of foundation.
A. I wouldn't say that's necessarily true.
Q. Do you recall personally raising asset transfer concerns with Mr. Abdelhak any time before April 29th, 1998?
A. Not specifically.
Q. Do you recall meeting with Mr. Abdelhak or otherwise communicating with Mr. Abdelhak at any point in time prior to April 29th, 1998?
A. Not specifically.
Q. Do you know whether anyone in MBIA's surveillance department spoke with Mr. Abdelhak

about the asset transfer issues you and Mr. Heberton raised in your memo prior to April 29th, 1998?
A. Not specifically. No.
Q. Why didn't you try to contact Mr. Abdelhak if you didn't have any comfort about Mr. McConnell's willingness to observe corporate formalities in terms of asset transfers?
MR. WITTEN: Objection.
MR. BROWN: Objection as to lack of foundation.
A. We did try. We were working with both Mike Martin and Dave McConnell. We would have phone calls with them and we did request meetings.
Q. And your requests were turned down?
A. Put off, delayed, excuses, meetings scheduled, canceled.
Q. Did you try to raise your concerns with the AHERF board?
A. Yes, at this meeting.
Q. Did you try to raise your concerns with the AHERF board at any time prior to April 29th, 1998?

A. No.
Q. And why did you not do that?
A. It's appropriate to first meet with the individual running the organization. And if you're not satisfied with the answers or the meeting, then you would then go to the next level of authority, which would be the board.
And because things were delayed, we asked for meetings with the board the same day we were asking for meetings with Sherif. This would not be typical, but because we were delayed and we didn't have any leverage to require a meeting and we got one as soon as we could, we wanted a separate meeting with the board members.
You'll note that our meeting with Barnes and Gumberg didn't include Sherif. And that's very deliberate.
Q. Were you frustrated, were you personally frustrated during this year lag time between your meeting with Mr. McConnell and your meeting with Mr. Abdelhak?
A. Yes.
Q. Did you act on that frustration in any way?

A. Yes.
Q. How did you act on it?
A. Repeated calls, getting updates, requesting meetings. Getting the attention of the most senior people.
Q. I believe you've testified that you got excuses from Mr. Abdelhak in terms of why he wasn't able to meet with MBIA.
A. Perhaps not from him but maybe from Mike Martin who was really our primary contact who would seek to set up meetings with McConnell and Sherif and the board members.
Q. But that frustration never reached the point of you attempting to contact any member of the AHERF board, the parent board.
MR. BROWN: Objection.
A. That's right.
Q. After the meeting on the 24th of April with Mr. McConnell, did you recommend to Ms. Strayer or to Mr. Mathis that MBIA seek some sort of binding guarantee that asset transfers out of the DVOG would stop at a certain point in time?
MR. WITTEN: Objection.

MR. BROWN: Objection.
A. No.
Q. And why did you not do that?
A. We didn't have any leverage to do so.
Q. Is it fair to say you thought it was a lost cause?
MR. BROWN: Objection.
A. No.
Q. Did you try -- did MBIA try?
A. No.
Q. And you didn't try simply because you felt that you didn't have any leverage.
MR. BROWN: Objection.
MR. WITTEN: Objection.
A. We didn't have leverage to require a change. When you have -- you're starting to interface with the management team in April of '97, you create a relationship and you form an opinion over time on their results and their actions. It would have been premature to require that then and there. And that's an opinion. Some people may say yes, we should have done that right away, and some people would say that would

be a lost cause. But I think that something in the middle is more appropriate, which is exactly what we did. We did what a typical workout officer would do.
Q. What's your basis for that statement in terms of what a typical workout officer would do?
A. 15 years of experience in lending and credit, new business and workouts as well. Spent two years at the Japanese bank doing real estate workouts. It's very good, hard core experience.
Q. At this April 24th meeting did Mr. McConnell make any representations, if you recall, as to whether physician practice acquisitions would continue in the future?
A. I can't say specifically. You're talking about the '97 or are you talking about '98?
Q. Yes, I'm sorry if that wasn't clear. April 24th, 1997 as discussed in Exhibit 1895. And if I could perhaps help you, if I could direct your attention to the very last few lines of the first page 030220, there's a statement here, "Also encouraging was his statement that he

projects that cash transfers will be reduced to $50 million in fiscal 1997 and will continue to decline since the physician acquisition program is now completed." Do you see that?
A. Yes.
Q. It says, "However, this number seems low as ADVOG had already made transfers equal to $32 million through the first six months ending 12/31/96." Do you see that statement?
A. Yes.
Q. And if you were to annualize that, that's roughly 64 million in transfers in fiscal year 1997, is that correct?
A. That's right.
Q. And do these sentences reflect your skepticism with respect to Mr. McConnell's representation?
A. Yes.
Q. So here's another example of a statement by Mr. McConnell that failed to give you comfort?
MR. WITTEN: Objection.
MR. BROWN: Objection.
A. I would say yes.

TAB 265

In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS, LLP

RICHARD WEILL
June 15, 2004

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Page 217

RICHARD WEILL

know what it is now that I see it date.

Q. Birthday?

A. Wife and husband's anniversary. I know exactly what I was doing.

Q. We will be sure to send a copy of this to Mrs. Weill who will be pleased to see --

A. Forty year marriage.

Q. Congratulations on taking a day off on your fortieth anniversary.

A. Actually I probably didn't take a day off. This letter was sent out at the end of the day and I left to take her to the city, but I know I didn't take the day off. That wasn't my nature.

Q. I take it you directed Mr. Mathis to send this letter to all of the AHERF board because of the gravity of the situation?

A. Actually I suspect that we only sent it to Tony. If you will look, it was care of in the address above. We may not have had the addresses of the board members, so I think we sent this to Tony for his circulation to the board.

Q. Okay. It was your understanding that

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Mr. Sanza who was then president and CEO of AHERF would circulate it to the AHERF board?

A. That was what we were hoping for, yes.

Q. Hoping for or was that your understanding, sir?

A. Understanding. I would have no way of knowing what he would do. We hoped that he would -- when you send a letter like this to an officer, you don't know for sure that he will circulate it. Our hope was that he would circulate it, but we had no other way -- this is the way to contact him.

Q. So why didn't MBIA take whatever steps necessary to contact each AHERF board member with this proposal?

A. I suspect that we wanted to get this letter out quickly. I suspect that Tony may have told us that he was going to circulate it for us to the board. All those things were probably in the suspect, but I can't tell you with certainty that it was circulated to the AHERF board. It wasn't sent to him, it was sent care of.

Q. Do you recall whether prior to this

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point in time July 11, 1998, MBIA had sent any other appeal or correspondence to the AHERF board?

A. It says that we sent one right here on July 7. You just showed it to me.

Q. The David Cook letter?

A. Right.

Q. Signed by Mr. Stevens?

A. Yes.

Q. Yes. I apologize. In addition to that piece of correspondence do you recall --

A. I don't recall any other.

Q. You don't recall you personally sending any correspondence to the AHERF board?

A. I do not recall.

Q. By this point in time had MBIA retained Goldman Sachs to assist it in --

A. It is my recollection that we had.

Q. Third paragraph, the opening sentence, appears the statement: "Our advisors indicate that the sale of the entire system would very likely yield a purchase price well in excess of all debt."

Do you see that statement?

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A. Yes, I do.

Q. Is that based on advice from the investment banking firm Goldman Sachs?

A. I can't say that with certainty but I sure think that's what it means, yes.

Q. I take it you believed that at the time?

A. Absolutely.

Q. I take it you wanted to send this letter to the board to build pressure on the board to keep AHERF and the DVOG out of bankruptcy?

A. Absolutely.

Q. Did you ever learn that a subcommittee of the AHERF parent board met at some point in time to consider this proposal?

A. I don't -- no, I do not know that.

Q. Do you recall that the AHERF board rejected this proposal?

A. I don't recall that either.

Q. Do you recall that the AHERF board failed to act on this proposal?

A. That's a certainty, yes, I mean that's just a fact.

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Q. Were you disappointed by that?
A. Yes.
Q. I take it you were disappointed by that because you felt that selling the entire system would avoid the need for a bankruptcy filing?
A. You know, that's exactly how I felt on that day, that is exactly correct.
Q. Do you recall at a later point in time making another offer of financial assistance to AHERF?
A. Yes.
Q. Do you recall roughly what was entailed with that offer?
A. I couldn't do it from memory, no, but I do know we made another offer. Or they asked us -- they asked us for an offer and we must have made a counteroffer is my recollection. It had to do with liquidity rather than this kind of letter. It was a different proposal.
Q. So in other words, it was a proposal for financial assistance as opposed to a proposal to sell --
A. My recollection, that's my

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recollection.
Q. If I can show you what we previously marked as Exhibit 1243?
A. July 13. Okay.
Q. Mr. Weill, does Exhibit 1243 embody the liquidity proposal that you had in mind? Or does it reflect --
A. You know, it is interesting. That isn't my -- I am sure that it does, but I don't recall it at thirty -- it must be. My recollection was that it was a smaller amount. I could be wrong. Remember, I didn't go back and look at anything so I can't help you exactly, but that's -- you know, this is the letter that was sent. It says that MBIA is involved in this offer so this must be the offer that we made on July 13.
Q. This joint offer contains no requirement for a pledge of assets held by AHERF's western affiliates, correct?
A. I don't know. I would have to read it because I don't know the offer.
Q. Okay.
A. So the answer is I don't know.

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Q. More generally, do you recall whether in this timeframe MBIA was willing to lend the DVOG a small amount of money without requiring a pledge of assets from AHERF's western entities?
A. Yes, it is my recollection that we were willing. One of the problems that I have not repeated every single time because I am trying to be a gentleman about this whole thing, is that people were working from information that turned out to be totally faulty.
Everybody was working from financial statements that turned out not to represent -- I am not calling them fraudulent, but I am calling them inaccurate. So all the information that everybody is working on at this time, all of this may have been a waste because in fact we didn't have the correct information as to the financial situation of any of these institutions. We may have been throwing money down a rat hole at this point.
So these were honest attempts by us to try to -- to help the situation. Yes is the answer to your question.
Q. Is it also correct that you don't

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recall reviewing or relying on the audited fiscal year 1997 financial statements for AHERF?
A. They weren't available on July -- for '97? The '96s come out in June of -- well, of course we would have relied on financial statements. We looked at this credit and we looked at the financial statements that were delivered to us.
Q. Did you personally to the best of your recollection review the audited FY '97 financial statements --
A. I did not.
Q. -- for AHERF or any of its affiliates?
A. I did not.
Q. And you don't recall, then, relying on those statements for making any decision?
A. Yes. Implicit in all of the discussions that we had at MBIA was a belief that the information that we were receiving was accurate and correct, that there weren't any misstatements in it. It is how you make decisions. You don't go around and say I am assuming the accuracy of these financial statements that are delivered to me.

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What you do is, in the real world, is you take a statement that's delivered to you, you read it and you believe it. Then you say -- you prepare a report like Dick Heberton's report that describes what was in the income statement that was delivered to you.

Just putting it in perspective, the board didn't have the information either when they rejected these offers.

Q. How do you know that, sir?

A. Because the statements subsequently were restated by the auditors.

Q. So by the information, what do you mean the information?

A. Correct financial information was not available. I am assuming that no auditing firm restates financial statements if they were correct when issued. You only restate financial statements when they are incorrect.

Q. Do you have any basis for concluding that the AHERF board would have done anything different?

A. No basis.

Q. Had --

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A. I have no basis for knowing that. However, let's be fair. Having correct information makes decisions more -- correct decisions to be made easier to make. No one tries to make decisions from false information, from fraudulent information.

And I haven't done this for every question because I didn't think it was fair to you, but inherent in this is that the financial statements were restated.

Q. Okay. So why are they fraudulent?

MR. WITTEN: Let him finish if he is answering a question.

A. I didn't say they were fraudulent, I don't know that.

Q. Just to be clear, you have no basis for saying that the audited fiscal year 1997 consolidated statements for AHERF and its affiliates are in any way fraudulent?

A. I didn't say that any of them were fraudulent. I said that a number of them were restated which means they were incorrect when delivered. I don't know if they were fraudulent. That's a legal issue.

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MR. WITTEN: Why don't we go off the record.

THE VIDEOGRAPHER: Going off the record at 2:08 p.m.

(Recess)

THE VIDEOGRAPHER: Returning to the record at 2:22 from 2:08.

(Exhibit 2626, Document Bates Stamped MBIA 030141 through 030142, marked for identification)

BY MR. KRUSKO:

Q. Welcome back. Let me show you what we just marked as Exhibit 2626.

A. Why didn't we date anything in those days?

(Pause)

A. Okay.

Q. Do you recognize Exhibit 2626, Mr. Weill?

A. No.

Q. I should back up one second.

For the record, Exhibit 2626 is Bates numbered MBIA 030141 through 030142.

Is it your belief that Mr. Stevens has

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prepared this document for you to use in addressing a letter to the MBIA board concerning AHERF and/or the DVOG?

A. I don't know what the purpose of this memorandum was, I'm sorry. I don't remember.

Q. Did Mr. Stevens at any point in time draft information for you to include in a letter that you in turn submitted to the MBIA board?

A. Not within my recollection, I'm sorry. I don't recall sending a letter to the board. But it says if you would -- says board letter paragraphs for DVOG.

Q. Right?

A. But I don't recall it.

Q. Okay.

A. By the way, it may not have been sent, too. I may have asked for information for a letter. I may have even drafted the letter and may have concluded at some point to do it orally or to do it differently. But clearly this was done, at least he thought he was writing a letter for the board.

Q. In your capacity as president, do you recall instances in which you submitted a letter

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adequate information upon which to oversight the hospital's operations.

The information they had was wrong. It was faulty. I am not saying it is fraudulent because I don't know that. But I do know that PricewaterhouseCoopers determined that it was wrong and faulty and issued new statements.

Q. Move to strike.

What other leverage did MBIA have other than the threat of acceleration?

MR. WITTEN: Objection. We have been through this for hours.

MS. SPRINGER: Asked and answered.

MR. WITTEN: But go ahead, answer it again.

A. I will answer. We could have gone to the newspapers which we have done in other circumstances. We could have gone to the governor. We could have -- we could have done lots of things that we have done in other situations.

Q. Okay. With respect to going to the newspapers, isn't it the case that your letter was released by MBIA to newspapers to in part

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apply pressure to the AHERF board?

A. Yes.

Q. So that a bankruptcy filing could be avoided?

A. Absolutely. The problem was -- what was the date of that letter? Let's examine that for a second. It is my recollection that that date is June of 1998. If the information that I am talking about had been available in February of 1997, the situation would have been totally different. You would not have been that close to bankruptcy then.

The events that occurred between the misstatements and June of 1998 could have been alleviated, could have been ameliorated by events that could have taken place.

Q. February 1997 is in what was AHERF's fiscal year 1997, correct?

A. I think it is -- aren't those the '96 -- weren't the '97 financials delivered -- '96 financials delivered in '97?

Q. I can actually represent to you that they weren't delivered in calendar '97. The audited fiscal year 1996 statements for AHERF

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were not delivered to MBIA in calendar '97.

MR. WITTEN: Well, we have seen a document already that shows that the '96s were delivered in November of 1997.

MR. KRUSKO: Correct.

MR. WITTEN: To MBIA.

MR. KRUSKO: Yes.

MR. WITTEN: Okay.

MR. KRUSKO: That's all I wanted to establish.

Q. I just wanted to establish that it seems to me you are talking about two different fiscal years. In other words --

A. I am talking about two different fiscal years, you are absolutely correct. You are absolutely correct.

Q. That's important because there are different allegations about each fiscal year?

A. Fine, that's fair.

Q. With respect to going to the government, meaning the mayor of Philadelphia and/or the government of Pennsylvania that's something that MBIA did as well, correct?

A. No, we didn't -- well, we did it but

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it was way too late. But let me tell you what we did in other circumstances so you can understand what you really can do in the real world.

If we had known about this in a timely fashion, in other situations we were able to get statutes passed in Congress that allowed people to get a tax ruling that they needed. We lobbied state senators to change the reimbursement program -- excuse me, yes, United States senators to reimburse -- for reimbursement programs.

And I am not saying that any of these things would necessarily have been done in this setting, but they were all cut off. All those alternatives were cut off because the information wasn't available.

Q. The information wasn't available even though the DVOG was an 8B credit as of February 1998?

A. It defaulted in June of 1998.

Q. Correct. But if I am understanding your testimony correctly, you are saying in February 1998 when it was an 8B credit, MBIA

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didn't have enough information to act upon?

A. That's correct. It didn't even know it had a default, and I am not convinced that we didn't have a default sooner than that. I don't know that. I mean, your point is well taken, I don't know what -- I would have to study the financial statements and allegations and the restated financial statements. But certainly the restated financial statements would have been delivered in a more -- if they had been delivered in a timely fashion correctly -- the '96 financial statements were for the period that ended June 30, 1996, is that correct?

Q. Correct.

A. I just heard that they were delivered in November of 1997.

MR. WITTEN: 1996.

A. In November of 1996. If -- I'm sorry, that's what I thought. I'm sorry. The reason February was when we wrote -- we downgraded, that's what I thought. Thank you. I knew the facts were wrong. I knew you stated it wrong.

MR. WITTEN: I meant to say earlier November of '96.

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MR. KRUSKO: I thought he did, actually, but be that as it may.

MS. SPRINGER: I think it was confusing between what you said and --

A. The fact is, if that information had been available to us and was correct in '97, whether it was late '96 or early 1997, and we knew that we had a more difficult problem or even a breach, lots of things could have happened before money was expended.

Q. So, for example, if the DVOG had violated the asset transfer test in fiscal year 1996, MBIA would have had certain rights and responsibilities that you are saying it would have pursued to the fullest degree?

A. I am going to sound weak. Pursued to the fullest degree, we would have pursued. I don't know what the fullest degree means. I am not going to pretend that I know what the fullest degree means. We would have pursued.

If the debt coverage test had broken one, we knew about it in '97, we would have had more power, more ability to cause the board to look at costs, to cause Hunter to be inserted,

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to do all kinds of things, obviously always with the threat of causing there to be an acceleration.

But that's exactly what happens in the real world in these situations, is that you don't go to the -- to use your word, to the absolute extent that you could go to. You don't do that. That isn't how this works. You work with people, but you have to have the right to assert things, and we didn't know we had the right, because the financial statements that were given to us turned out to be, at least according to Coopers & Lybrand, incorrect because they restated them.

Q. Has anyone at MBIA ever communicated to you that had the asset transfer test met MBIA's standard underwriting guideline, that the DVOG would have violated the test in fiscal year 1996?

A. I can only look at the documents themselves. I'm sorry, are you asking if they had violated the test that was in DVOG?

Q. Correct.

A. I don't know -- we would have pursued

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it, yes.

Q. Perhaps just a little unclear. What I am asking is whether anyone at MBIA has ever represented to you that had MBIA's standard asset transfer test been adopted, that DVOG would have violated the test in fiscal year 1996?

A. I don't know what you are talking about when you say standard. You mean put in the documents when originally done?

Q. Yes.

A. I'm sorry. We never look at things that way. The answer is I don't know what we would have done. I am only arguing, just so you understand my point -- I got to repeat my point.

The only thing that you worry about after the deal is done is what the deal itself says. There is no value in anyone spending time, although I am sure they do, worrying about a provision that you wish you would have had.

I am not saying you can't find someone who said that. You probably can. But it is useless.

Q. Do you know what MBIA would have done

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had the DVOG violated the asset transfer test in fiscal year 1996?

A. The one that was in the documents?

Q. Yes.

A. I do not know exactly what we would have done, but we would have asserted that they shouldn't do it any more. We would have worked our darn heart out to get them to make the changes in their administration of that hospital so that they weren't wasting money. We would have argued that Hunter should have been brought in. We would have argued a hundred things. We didn't have the power to do that because we didn't have the information. By the way, the board didn't have it either.

Q. You keep saying that the board didn't have it. Have you ever untaken any review of what information was available to the AHERF board at specific points in time?

A. No. But I do know that a board has available to it financial statements that are delivered to it by an auditing firm. That's what it has available to it, and they didn't have correct financial statements, it turned

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out. I didn't say they had incorrect financial statements. It turned out that Coopers & Lybrand said they had incorrect financial statements, not me.

Q. Okay. Separate and apart from that, are you aware of any information that was available to the AHERF board?

A. No.

Q. Aside from the fiscal year 1996 audited financial statements and aside from the fiscal year 1997 audited financial statements?

A. The answer is no.

Q. Do you have any personal knowledge of any steps that any creditors of AHERF and or its affiliates could have taken that would have in fact have altered AHERF's financial demise?

MR. WITTEN: Objection. We have been through this for a long time.

You can answer that if you wish.

A. I don't -- do I know actual steps they would have taken? No. I can only say what we would have tried to do under the circumstances and I have done that already.

Q. I think I am done for now, thank you.

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A. Thank you.

MR. WITTEN: You guys want to take a break?

(Pause)

EXAMINATION

BY MR. WITTEN:

Q. Mr. Weill, you will remember my name is Jesse Witten and I am an attorney for the plaintiff Official Committee of Unsecured Creditors of AHERF?

A. Yes.

Q. Is there a committee within MBIA called the executive policy committee?

A. There is today.

Q. When did that committee come into being approximately?

A. Sometime after January 1, 1999.

Q. After January 1, 1999?

A. Right. Before that there were committees, but I don't think they had that name. Maybe they did.

Q. In 1998 was there a particular committee that David Stevens sought to get himself appointed to?

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A. Yes.

Q. What was that committee?

A. Well, I think "committee" is the wrong word. There was a senior management group that was kind of an executive policy group. I'm not sure it was a committee in the traditional sense of the word. It met with David Elliott periodically. It was considered the senior management team.

Q. What should we call this grouping of people?

A. I would call it the senior management team.

Q. David Elliott, again, at the time was the chief executive officer of MBIA?

A. That's correct.

Q. In 1998, is it the case that David Stevens sought to get himself appointed to the senior management team as you have described it?

A. Yes. He probably did in 1997, too.

Q. How did you learn that he tried to get himself appointed to that group?

A. He asked me.

Q. What did he say to you?

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A. He said I want -- I think that I should be on the senior management team on a number of occasions. I mean, we are talking every single morning, and during his -- we do reviews at MBIA twice a year and he certainly in his review said that he wanted to be on the senior management team.

Q. Who appointed people to the senior management team?

A. David Elliott.

Q. Aside from telling you that he wanted to be appointed to the senior management team, are you aware of anything else that David Stevens did to try and get himself appointed?

A. Sure. He talked to other people that were on the senior management team and asked them to assert on his behalf, and he lived a few doors away from David Elliott, and David Elliott knew him and respected him. He obviously asked David Elliott

Q. In 1998 did Mr. Stevens say to you whether it was important to him to be appointed to the senior management team?

A. Yes.

RICHARD WEILL

Q. What did you say?

A. He said it was important to him to be important to the senior management team. He wanted to be on the senior management team.

MR. KRUSKO: I think we have established that.

MR. WITTEN: Let him answer, please.

A. He wanted to be on the senior management team and he was clear about it.

Q. Did he say that often to you?

A. Yes.

Q. What ultimately did Mr. Elliott decide in 1998 about appointing Mr. Stevens to the senior management steam?

A. He decided not to appoint Mr. Stevens to the senior management team.

Q. Do you know how Mr. Stevens was informed of Mr. Elliott's decision to pass him over for appointment to the senior management team?

A. I told him.

Q. When did you tell him?

A. I told him during his review, midyear review.

RICHARD WEILL

Q. Midyear in 1998?

A. Yes.

Q. How did you tell Mr. Stevens that he would not be appointed to the senior management team?

A. Carefully. Mr. Stevens, David Stevens is excellent at many, many, many things. I respected David Stevens. I trusted David Stevens. He was as close a colleague as one might have.

He, however, was prickly, abrupt, difficult to deal with, particularly opinionated after the fact, and David Elliott did not think within the team concept of MBIA that it would work out with him on the senior management team.

He had a very poor relationship with Jan Christensen. He had a very poor relationship with Neil Budnick. He had a great relationship with me. I used -- as you can see, the MBIA method, as so well proven by 2631, document exhibit 2631, is to write down key points that you are going to make in a conversation.

And in a conversation that I had with

RICHARD WEILL

him during his review, I made the key points that David Elliott asked me to make to him which were: One, you are great, we want you to stay, we will pay you well, we love you, but, two, unfortunately, just don't feel like you would be someone that's going to fit on the senior management team in the style that you seem to want to operate.

Q. Was there any particular word used by Mr. Elliott or by you in this meeting to describe Mr. Stevens to him?

A. We carefully picked a word that we thought wasn't emotional. We said he was prickly, to be exact.

Q. What did Mr. Stevens say to you at this midyear 1998 review when you told him he was not going to be appointed to the senior management team?

A. He was outraged. And my style still is and was then and still is is to let people, when they get bad news, vent any way and as long as they want. And he vented that day and the next day and maybe didn't show up for work for a day.

TAB 266

DEPOSITION EXHIBIT 2201 10/9/03

INSURED PORTFOLIO MANAGEMENT ALERT REPORT
February 3, 1998
DOWNGRADE TO CREDIT WATCH LIST B

TO Distribution

FROM. Chip Reilly, Alyssa Park

RE Allegheny Delaware Valley Obligated Group

CONCERN Recent Rating Downgrades, Limited Liquidity, and Poor Operating Performance

ACTION Downgrade to Credit Watch List B

Bond Type:	19		**Gross Par Value:**	$298,625,000		
Policy #:	212710	212720	**Net Par Value:**	$256,294,907		
	212730	212740	**Net Debt Service:**	$447,628,356		
Credit #:	PA0543		**Next DS Pmt:**	$7,064,238	**Date Due:**	5/01/98
			MADS:	$21,913,745	**Year:**	2013
Rating:	MBIA:	8B	**AADS:**	$14,828,794		
	Downgraded From 7B					
	Moody's	*Ba2 (11/97)	**Final Maturity:**	11/15/2021		
*Unpublished	S&P.	*BBB (8/97)	**Last Approval:**	6/19/96		

Allegheny Delaware Valley Obligated Group (DVOG) is being downgraded to 8B due to concerns over recent rating downgrades for affiliated organizations, an extremely weak liquidity position, and anemic operating margins in part due to managed care pressures in an over-bedded market. DVOG is the eastern arm of Allegheny Health and Educational Research Facilities (AHERF) and consists of six hospitals in the Philadelphia area. AHERF acquired the Graduate Hospital System and Zurbrugg Memorial Hospitals (Allegheny Hospitals, New Jersey) in 1997, but both are outside of DVOG

DVOG has weak liquidity and high leverage. Available cash was $78MM in FY97 (26 days) and dropped during the first quarter of FY98 (9/30) to $65MM (19 days). Debt to capitalization is high at 67% for FY97. Moreover, DVOG's operating performance continues to slide. The operating income was -$1.1MM for FY97, but there was a positive bottom line of $24.5MM. In the first quarter of FY98, DVOG has already posted an operating deficit of -$26.3MM and a bottom line of -$21.4MM. DVOG also plans to post an additional $84MM loss beginning in the second quarter of FY98 as a result of layoffs. Demands for cash within DVOG are high because in addition to severance costs, there is also internal reorganization charges and physician contract buy-outs. As of the first quarter of FY98, DVOG has drawn $87.3MM from several lines of credit. On a more positive note, as a system, AHERF has better liquidity with $442MM (83 days) of available cash, and has a history of freely transferring cash between its subsidiaries

The competitive Philadelphia market has affected more than just DVOG, many entities within AHERF have been the subject of recent downgrades. Moody's just downgraded Graduate to B2 from a Ba2. Moody's also downgraded Zurbrugg to Ba3 from Baa3. Recently, the eastern division of AHERF has been supported by cash flows from the stronger, western division which is based in Pittsburgh. However, these drains on cash have begun to take their toll. Allegheny General Hospital, rated an Aa in 1992, was recently downgraded to A3 from A2 despite their solid position in the Pittsburgh market

The greater Philadelphia market is one of the most difficult healthcare markets due to intense managed care pressures and an extremely competitive and over-bedded marketplace. Although DVOG is the largest player in the Philadelphia market, it still only has a 15% market share. Pittsburgh, while not as competitive as Philadelphia, is subject to the near monopoly of Blue Cross of Western Pennsylvania, and may be subjected to greater volatility and uncertainty in the future

TAB 267

ALLEGHENY
HEALTH, EDUCATION AND
RESEARCH FOUNDATION

320 East North Avenue
Pittsburgh PA 15212-4772

via facsimile (412) 762-2784

Tuesday, December 23, 1997

Mr Frank Taucher
Vice President
PNC Bank, N A
One PNC Plaza, 5th Floor
249 Fifth Avenue
Pittsburgh, PA 15222-2707

RE: **Delaware Valley Obligated Group (DVOG) Series 1996 Letter of Credit, Reimbursement and Security Agreements**
[1) Series 1996-D tax exempt variable; 2) Series 1996-E taxable commercial paper]

Dear Frank

Per my conversation with you of the other week, enclosed please find the following information

- ✓ DVOG internal financial statements for the 4-months ended Oct-31-97
- ✓ Drawdown schedule of board-designated assets, since Oct-31-97
- ✓ Oct-31-97 Liquidity Ratio calculation (actual)
- ✓ Oct-31-97 Liquidity Ratio calculation (adjusted by drawdowns through present)

We regret to inform you that DVOG is not in compliance with the Liquidity Ratio requirement of 2 00 to 1 00 as of the present time It is not anticipated that DVOG will meet this Liquidity Ratio requirement for the balance of fiscal year 1998 Therefore, please accept this formal request from AHERF to extend a waiver pursuant to Section 6 10 (Financial Covenants) of the Letter of Credit, Reimbursement and Security Agreements through June 30, 1998

Thank you for your consideration and we look forward to hearing from and working with you to resolve this issue in a timely manner

Sincerely,

M. P. Martin

Michael P Martin
Senior Vice President, Treasury

enclosures
S \WPWIRRAY\TAUC1223 WPD
cc Susan M Gilbert
Angela B Maher
David W McConnell ✓
Richard J McKeown
Kelly L Mertz
Becky Serafini

AHERF LIT
USDC W.D. Pa.
MISC No 00-40
23992
EXHIBIT NO

RECEIVED

DEC 29 1997

Executive Vice President &
Chief Financial Officer

DEPOSITION
EXHIBIT
1788
AKF

TAB 268

In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS

BRIAN CAMP
June 28, 2004

LEGALINK MANHATTAN
420 Lexington Avenue - Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171

CAMP, BRIAN - Vol. 1

LEGALINK
A WORDWAVE COMPANY

document more so than I actually remember her being previously on it.
Q. So you don't know you took it over from?
A. I don't recall.
Q. Okay. You said you don't recall when you started doing the AHERF analyses. Do you recall generally when it would have been?
A. No, I don't. I don't think it was the first thing I worked on when I joined the group, but I think it was within, maybe, the first six months or a year that I was there.
Q. Okay. And just if we look at Exhibit 1785, which is the big one we've been looking at most of the day, if we look at the Credit Information Sheet, which is the first page of that exhibit, underneath the line that says Credit Underwriting by Brian Camp, there's a line that says, Approval Date: 12-22-97, and we also looked at your underwriting document earlier which had a December 22, '97 date.
Does that help you set in time that it was some time before December of '97 that you took over the analysis of the AHERF credit?
A. Yes. Yes, you could say that.
Q. If you could turn the page to 30886 on Exhibit

1785.
A. Okay.
Q. And, again, we're looking at Section 1 which includes the most significant issues with respect to the credit addressed in this credit review, is that right?
A. Yes.
Q. And if we look at the third bullet point from the end under that section, that paragraph begins -- you've written, The individual hospitals of the Delaware Valley group are currently experiencing staff reductions to offset an AHERF reported $6 million decrease in reimbursement. Overcapacity can also be singled out for the current market situation. Did I read that correctly?
A. Yes.
Q. If we flip to page 891 -- with the Bates ending 891, if you look at the second bullet point on that page, which is, again, a continuation under the heading Operating Performance --
A. Okay.
Q. -- it again says, The individual hospitals of the Delaware Valley group are currently experiencing staff reductions to offset an

AHERF reported $6 million decrease in reimbursement. And then it says, Also contributing to this reduction was overcapacity.
A. Okay.
Q. Is that correct?
A. Yes. That's what I see.
Q. Do you recall in this time frame that AHERF's Delaware Valley group affiliates were experiencing layoffs?
A. No, I don't. Before I came here and read this, I really didn't remember what the Delaware Valley group was. So, no, all I can really say is what I'm reading.
Q. I'm sorry. I didn't mean to interrupt you.
A. That's okay.
I was just saying all I can really remember about the Delaware Valley group is what I'm reading actually right here.
Q. Do you recall that AHERF had affiliates in the Delaware Valley?
A. In reading this, I can see that. Before, I couldn't have told you what the Delaware Valley was, but in reading this, clearly, the Delaware Valley has affiliate hospitals, it appears.

Q. Having looked at this, you know that AHERF had affiliates in the Delaware Valley, is that correct?
A. Yes. That's what this says.
Q. Flip back to page 30891.
A. Okay.
Q. This is the portion of the document with Ms. Mammarella's signature at the end, correct?
A. 30891?
Q. I may have a pagination problem here.
A. Okay.
Q. Sorry. I directed to you the wrong page. 30839 --
A. 839.
Q. -- is the page that we need.
MR. UNICE: 839?
MR. SMITH: Yes.
A. Okay.
Q. And this is the section of the document that I believe was authored by Ms. Mammarella, is that correct?
A. Yeah, I'm not sure, but her name is at the end of the section, so I believe it was.
Q. In the paragraph at the top of that page, it says, While cost savings of approximately $40

to $50 million through headcount cuts have been achieved so far, (specifically a six percent reduction in the work force, or 1,200 jobs, primarily in Philadelphia), such expenses still have negatively impacted the organization's operating results as much more restructuring is needed. Did I read that correctly?
A. Yes.
Q. And the next sentence says, AHERF management initially stated that the staffing cuts and a 20 percent pay cut imposed upon executives throughout its system were due to the state's mandatory shift of Philadelphia's Medicaid patients into managed care and on the federal government's attempts to rein in on Medicare spending. Did I read that one correctly?
A. Yes. That's what I see.
Q. Do you recall any discussions with anyone in the Health Care Lending Group with respect to layoffs by AHERF of 1,200 employees amounting to a six percent reduction in the work force?
A. No. I remember no layoff talks.
Q. Do you know whether those layoffs referenced at page 30839 are the same staff reductions that you were referring to at pages 30886 and 30891,

the two paragraphs that we read from your section immediately preceding?
A. No, I don't recall. I can read. I don't recall explicitly. In reading it, it looks like they may be referring to the same thing, but I'm not sure, because I don't use the same language that's used here.
What was the second page that you're referring me to?
Q. Of your section?
A. Yeah, my document.
Q. 30891.
A. 891.
Q. And the section we're looking at is the second bullet point.
A. Okay. I don't remember, but it appears to be talking about the same thing.
Q. I'm going to hand you what's previously been marked as Exhibit 1776, which is a reprint of an article from The Philadelphia Inquirer dated October 18, 1997 entitled Explaining Why The Ax Fell For 1,200.
As part of your responsibilities in monitoring health care credits, would you keep apprised for press reports addressing the

entities for which you did credit analyses?
A. In general, I wouldn't say I read all the papers from the different cities, like, I don't remember this article, but I would say I would have attempted to stay as apprised as I could.
Q. Did you say you would have attempted to stay as apprised as you could?
A. Yeah, I would have sought out whatever I could have found, but I don't recall reading this.
Q. This particular newspaper article?
A. Yeah.
Q. Do you see underneath the headline, Explaining Why The Ax Fell For 1,200, the sub-heading there says, Allegheny Hospital's chief executive calls the layoffs unavoidable. He disputes a view that faults the company's aggressive acquisitions and spending. Did I read that correctly?
A. Yeah. That's what I see.
Q. I know you said you don't recall this article specifically.
A. Yeah.
Q. Do you recall seeing any other press accounts that faulted AHERF's aggressive acquisitions and spending for the layoff of 1,200 employees

that's being reported here?
A. No. I know from the sentences in the paragraphs you read me out of here, that the Delaware Valley group is referring to a group of hospitals in Philadelphia, which I didn't quite remember before I came here, and this is also referring to, it looks like, job cuts in that group of hospitals in Philadelphia, but I don't really recall. That's pretty much what I basically recall about it. I really didn't remember the Delaware Valley group until we just read about it.
Q. Do you remember the Allegheny General Hospital Obligated Group?
A. Yes, I remember Allegheny General Hospital.
Q. Okay. And what do you remember about that obligated group?
MS. WYRICK: About that what?
MR. SMITH: Obligated group. I'm sorry.
A. Oh, obligated group?
Q. Yeah.
A. No, I remember --
MR. UNICE: Object to form.
A. I remember doing -- I remember the hospital. I

couldn't tell you what was in the obligated group.
Q. Okay.
A. Okay?
Q. And what do you remember about Allegheny General Hospital?
A. Just, in and of itself, that I believe I did a credit report on Allegheny General Hospital.
Q. Okay. And just to make it clear, because I think my first question we might have passed each other a little bit, do you remember the Allegheny General Hospital Obligated Group?
A. No, I remember the hospital.
Q. And why do you think you remember the hospital?
A. Because I --
MS. WYRICK: Object to that.
A. I guess my general -- since it's been so long, I tend to remember the bigger -- the actual company underlying. I don't remember, like, how it was structured, an obligated group, and Delaware Valley is just groupings of company. I don't remember how they were grouped, but I generally remember the hospital.
Q. Do you remember Elkins Park Hospital?
A. No, not at all.

Q. Bucks County Hospital?
A. No. I know Bucks County is in Philadelphia, but, no, I don't remember Bucks County Hospital.
Q. St. Christopher's Hospital for Children?
A. That one seems familiar, although I don't recall actually writing a credit or writing a review up on that at all, but that name seems familiar.
Q. Going back to the newspaper article that you were looking at --
A. Okay.
Q. -- I know it's a tough copy to read, but let me see if I can read some of it.
Beginning underneath the byline there, it says, He says he had no other choice. Battered by cutbacks in government funding and facing a shortfall of revenues, Sherif Abdelhak, chief executive of the region's largest hospital network, says he was forced to take drastic action. Just how drastic became apparent last Monday when Allegheny slashed its payroll by 1,200 employees, or six percent of the entire work force at its ten area hospitals.

Nobody looked forward to doing something that was the antithesis of what we stand for, Abdelhak said, in his first interview about the downsizing, but we were forced.
A. Okay.
Q. Do you recall that Sherif Abdelhak was the chief executive officer of AHERF?
A. Now that I see the name, I remember the name from some of the Pittsburgh articles that were in the news that was going on at the time. I remember the Sherif. I don't remember his last name.
Q. And do you recall that AHERF was -- I think you referred to it earlier as the holding company with which Allegheny General Hospital was affiliated, is that correct?
A. Yes. That's how I remember it.
Q. And now having heard the names of some of the Delaware Valley entities, including St. Christopher's, which I think you said you remember --
A. Yes.
Q. -- does that refresh your recollection that those hospitals were also affiliated with

AHERF, the holding company?
A. I can say that now I understand that they're part of the thing you've been calling the Delaware Valley group, and I understand that's part of -- or was something underneath of AHERF.
Q. Okay.
A. That's what I remember.
Q. And we saw that in that organization chart that we looked at earlier, is that right?
A. Yeah. Um-hum.
Q. Moving on to the paragraph next to the picture of Mr. Abdelhak that's down the bottom left corner of that picture, it says, But to some of the fired employees and other local industry observers, the Columbus Day Massacre isn't so easily explained. Do you see that?
A. Yes.
Q. Do you recall at any time hearing of layoffs at any of the AHERF entities referred to as the Columbus Day Massacre?
A. No. Again, for whatever reason, the whole Philadelphia Delaware group just doesn't really ring a bell to me. Like, this seems to be talking, again, about that half of the state.

TAB 269

In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS, LLP

RALPH S. MICHAEL
March 11, 2004

LEGALINK MANHATTAN
420 Lexington Avenue - Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171

MICHAEL, RALPH S.

MR. TERUYA: Counsel's eyes only or confidential?
MS. HACKETT: I want it counsel's eyes only. Now, I -- sitting here I'm not sure if the case management order would permit that, but I would ask your stipulation that it would only be reviewed by counsel and not disclosed beyond counsel in this case if you're going to ask him for that type of extremely personal information.
MR. TERUYA: Well, let me think about that question and I'll come back to it.
MS. HACKETT: Okay.
MR. TERUYA: Why don't we take a quick break.
MS. HACKETT: Sure.
THE WITNESS: Thank you.
MR. TERUYA: Sure.
THE VIDEOGRAPHER: The time is 2:53 p.m. We're off the record.
(Whereupon a break was taken.)
THE VIDEOGRAPHER: The time is 3:00 p.m. We're on the record. This is tape No. 3 of the deposition of Ralph S. Michael, III. We're on the record.
BY MR. TERUYA:

Q. Were there any types of written practice or procedure or policy documents that you referred to from time to time in your work as CEO of the corporate banking area?
A. Not typically, no.
Q. Were there on specific occasions any types of documentation you relied on or referred to?
MS. HACKETT: Can I stop you for a minute? I don't understand.
Is there a particular subject matter for which he would have referred to the written documentation? Am I missing something in this?
MR. TERUYA: With respect to healthcare matters.
THE WITNESS: There were healthcare credit policies, but I typ- -- of which I had a general understanding but not a specific understanding.
BY MR. TERUYA:
Q. Other than the healthcare policies, perhaps examples of which we've seen today, were there any other types of documents you would have referred to from time to time in making credit-type decisions with respect to healthcare?
A. No, other than borrower-specific information.

Q. Okay. When you say borrower-specific information, do you mean offerings or other types of documents --
A. Financial or -- financial statements, et cetera.
Q. Okay.
Do you know if there was any established practice or procedure at PNC in how to respond to noncompliance or defaults with debt agreement obligations?
A. Every situation is different, you know, so there are no established, "if this, then that," no.
Q. Do you personally know as you sit here today of any GAP violations in any AHERF or DVOG financial statements? And when I say "personally know," I mean not from news articles or people telling you things, but just from your own personal knowledge.
A. It's been so long that I believe I do, but I can't cite what they are, so -- I believe I had knowledge of them at one point, but I honestly can't remember what they are.
Q. Do you know what your knowledge was based on at some point even if you can't recall particular examples?

A. Yeah. My understanding of the financial statements and of GAP.
Q. As a non-C.P.A.?
A. As a non-C.P.A., correct.
Q. And was that belief or knowledge formed just on your own personal review without assistance from others of the financial statements?
A. I don't recall.
Q. And even if you don't recall the particular items, do you recall anything about even what areas those violations might have related to?
A. No.
Q. Do you recall who you might have had any discussions with about such violations?
A. No. Most of -- most of the -- as I stated earlier, most of the energy that I put toward this at the time was really prospective. How do we keep this thing from -- on the rail, so to speak. There isn't a lot -- when you're in a crisis mode like this, there isn't a lot of, gee, how did we get here? There is, you know, typically forensic accounting work done, you know. But the first thrust of that is to find out what's real in the balance sheet and among the cash flows, not so much of who shot John.
Q. Do you personally know of any audit failure

by Coopers & Lybrand?
A. Not personally, no.
Q. Do you personally know of any failure by Coopers & Lybrand to comply with generally-accepted auditing standards?
A. I don't.
Q. Do you personally know of any failure of Coopers & Lybrand to comply with the contract with AHERF and/or its affiliates?
A. Wouldn't know what that contract is, so I would have no way of knowing.
Q. Okay.
Do you personally know of any failure by Coopers & Lybrand to expose AHERF's deteriorating financial condition, violations of areas that covenants, deficient financial controls and/or AHERF senior officials' financial manipulations?
A. I don't know specifically.
Q. Do you have any general knowledge of that topic?
A. No. None that bears mention. Speculation.
Q. Okay.
Do you personally know which trustees, if any, of AHERF or its affiliates were uniformed about the true state of AHERF's financial condition?

A. No.
Q. Do you personally know of what steps, if any, any trustees of AHERF or its affiliates would in fact have taken if they had had additional information about AHERF's financial condition at an earlier point in time?
A. No.
Q. Do you personally know of what in fact would have been the effect, if any, of any steps that trustees of AHERF might have taken?
A. No. Because I don't know what those steps were, it's hard to know what the effect would have been.
Q. Do you personally know of any steps that any trustees of AHERF or its affiliates could have taken that would have in fact halted AHERF's financial demise?
A. No.
Q. Do you personally know of any steps that anyone could have taken that would in fact have halted AHERF's financial demise?
A. No.
Q. Do you personally know what steps, if any, any creditors of AHERF or its affiliates, including PNC, would in fact have taken if they had had

additional financial information about AHERF's financial condition or its affiliate's financial condition at an earlier point in time?
A. I think safe to say that had we known this earlier, you know, the -- there would have been, you know, very active discussion around either restructuring the debt in some form or fashion or accelerating repayment. The timeliness of information here is of real import to a creditor.
Q. Do you know what would have been the outcome of those discussions in fact?
A. I don't know because we didn't have the information at that time.
Q. So sitting here today it's impossible to speculate or it would be just speculation --
MR. COGAN: Objection.
BY MR. TERUYA:
Q. -- as to what would have happened?
MS. HACKETT: It would be speculation as to what would happen? I don't understand the question.
THE WITNESS: Yeah.
MS. HACKETT: What are you asking him?
BY MR. TERUYA:
Q. You said you couldn't say today what would have been the outcome of the discussions, and what

I'm trying to ask is, you know, why is it that you can't say sitting here today what would the outcome have been?
A. Well, if the outcome is in terms of would AHERF ultimately file bankruptcy -- this is the way I interpreted it -- would they ultimately file bankruptcy or not, you know, I don't know that.
You know, Would it be likely that we would have done something -- we, PNC, I can't speak for other creditors -- but that we PNC would have done something along the lines of accelerating the debt, you know, I think it's very likely.
Q. So you think --
A. Declaring a default and/or when I say accelerating the debt, that's kind of the end statement. But, you know, threatening to declare a default, you know, and, for instance, causing the $90 million not to be paid to Mellon Bank.
Q. Let me ask you in steps.
Do you think that declaring a default and actually accelerating rather than threatening to accelerate the debt would have been the outcome?
A. I think that threatening a default, you know, probably would have, you know, caused a different outcome. Declaring a default and

accelerating the debt definitely would have brought about a different outcome for the secured creditors.
Q. Okay. Let me back this up.
Do you know what PNC in fact would have done as between restructuring the debt, accelerating the debt, or something else?
A. No because we didn't have the information at that time, and I can't put myself back to the point in time where I would have the information, so --
Q. Okay.
And in terms of declaring a default, do you know in fact what would have been the effect if PNC had declared a default in terms of how things would have unfolded at AHERF?
A. No. And I think that was the question I tried to answer earlier.
MS. HACKETT: Uh-huh.
THE WITNESS: No. I can't say that we know that specifically.
BY MR. TERUYA:
Q. And likewise, do you know in fact what would have been the effect if PNC had declared a default and then accelerated the debt?
A. Ask that again. For some reason I got

distracted.
Q. I said, likewise, do you know what would have been the effect in fact if PNC had declared a default and then accelerated the debt in terms of how things would have unfolded?
A. No. I don't know, you know.
Q. And earlier you mentioned the possibility of stopping the repayment to Mellon Bank.
A. Just as one potential outcome.
Q. How would that have been effectuated?
A. Well, the -- by -- you know, by -- and again, this is a -- just simply an example, you know, but by notifying the management and potentially the Board that an event of default existed and would not be waived, the management of the Board would have been crazy to pay $90 million to yet another creditor when the gun is held to your head by one creditor.
So I suspect what would have happened there is that Mellon and PNC would have threatened default, and everyone would have come to the table together as a workout.
Q. Do you know when is the earliest date that PNC could have declared an effect of default with respect to the DVOG letters of credit?
A. I don't.

MR. COGAN: Objection. That's okay. I protected the record.
MR. TERUYA: What was the objection about that question, just out of curiosity, to make sure I didn't misstate something?
MR. COGAN: I'm objecting to the form of it and the foundation of it.
MR. TERUYA: Okay.
MR. COGAN: And more particularly, he's never read the credit instruments. You're asking him for a legal conclusion as to when they could have first declared a default. He doesn't know the underlying documentation, so I don't know how he can make that determination, and do when you can first declare a default in my view does -- at least the way you asked it -- calls for a legal conclusion. I hope that helps.
MR. TERUYA: Okay.
MR. COGAN: Since you asked.
MR. TERUYA: I did ask.
Q. Did anyone -- did you have any understanding of your own as to when PNC could declare an event of default?
A. No. Does that tell you -- from the vantage point that -- I had never read the legal agreement.

Q. Okay. Do you know -- I think we covered this with respect to particular examples, but do you know what in fact would have been the effect, if any, of any steps that any creditors of AHERF's affiliates could have taken?
MS. HACKETT: Other than what he's already testified to?
MR. TERUYA: Yeah.
Q. Other than what you've already talked about?
A. No, I don't.
Q. Do you personally know of any steps that any creditors of AHERF or its affiliates, including PNC, could have taken that would in fact have halted AHERF's financial demise?
A. It's been so long, I can't recall the -- what the remedies might have been. The proposed remedies might have been at that point.
Q. So given the passage of time --
A. Yeah.
Q. -- you don't have knowledge today as you sit here?
A. I don't. I don't.
Q. Do you personally know of any conduct by Coopers & Lybrand that contributed to delays in

discovering the true financial statement of affairs in the AHERF system?
A. I don't.
Q. Do you have any personal knowledge of any conduct of Coopers & Lybrand that aided in preventing the immediate implementation of effective measures in time to reverse the decline in AHERF's financial condition?
A. I don't.
Q. Do you know personally of any inaccuracies revealed in AHERF's financial statements that had a material and negative effect on the sale price of certain AHERF affiliates?
A. I don't, but I'm not sure I would have been close enough to it to know. But I don't know.
Q. Okay.
Do you know whether -- personally know whether if any creditors of AHERF or its affiliates, including PNC, had had additional information about AHERF's financial condition -- I'm sorry. Let me start over, then.
Do you personally know whether any creditors of AHERF or its affiliates, including PNC, had had additional information about AHERF's or its affiliates' financial condition at an earlier point

in time, the AHERF system would in fact have been precluded from incurring the obligations that eventually forced its bankruptcy?
MR. COGAN: Objection.
MS. HACKETT: Did AHERF -- you're asking him that AHERF would have been prevented from incurring the obligations?
THE WITNESS: I --
MR. TERUYA: Yes.
MS. HACKETT: Object. Lack of foundation.
But you may answer if you understand it.
THE WITNESS: I would say simply that I don't -- it's not clear to me what financial obligations that specifically caused the bankruptcy, so I guess I can't answer the question.
MR. TERUYA: Okay.
THE WITNESS: It's a lack of understanding on my part.
MR. TERUYA: Okay.
Q. Do you personally know if any decrease in AHERF's income or assets for fiscal years '96 or '97 would in fact have caused bond holders, credit enhancers or other creditors to have acted any differently?
A. I have a strong belief that had the, you

know, financial results been reported at that point in time that the debt ratings would not have remained at the level that they were, and I think that would have had an impact on all of the above.
Q. Do you know whether in fact the debt rating would have been affected?
A. I don't know it for a hard fact because I'm not Moody's or Standard and Poors, but I'm very confident that it would have been.
Q. And what would in fact have been the effect in any change of the debt rating?
A. Depending on the time, I know certainly had it been -- had it occurred prior to our approval, had the debt been noninvestment grade, you know, it's possible that we wouldn't have approved, you know, that credit. It is likely that we wouldn't have approved it in that size, you know.
Q. Do you have any recollection as you sit here today of the chronology of the approval of the DVOG letters of credit versus the issuance of the fiscal year '96 financial statement?
A. I don't recall.
Q. Okay.
In addition or other than or setting aside the possible ramifications with respect to the

approval decision, what other effects, if any, would be -- any change in the financial statements in fact have caused among creditors?
A. Including PNC or --
Q. Including PNC.
A. Yeah. The -- the -- it's entirely likely that that would have made the, you know -- any covenant violation, any waiver discussions, you know, much more difficult for the company. You know, that there would have been, you know, far stronger pressure to restructure, you know; far stronger pressure to limit expenses and to really right the ship from an operating perspective.
We had a misconception of what the hospital looked like from an operating perspective.
Q. And do you know what particular steps PNC would have taken?
A. I don't really know because we weren't confronted with that issue.
Q. Okay.
Do you know what effect in fact a restructuring would have had if it had occurred at an earlier point in time?
A. Well, I don't know in fact, but I would observe that it -- it probably would have improved

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the operating cash flow of the organization.
Q. Did you ever perform any retrospective study of any of these issues of what, you know, could have been different in terms of the operations at AHERF --
A. I did not.
Q. -- if different steps had been taken?
A. I did not, no.
Q. Do you personally know of or would your answer be the same to the question do you personally know if any decrease in DVOG's income or assets for for fiscal years '96 or '97 would in fact have caused bond holders, credit enhancers, or other creditors to have acted any differently?
A. Same answer.
Q. Do you personally know if any decreases in AHERF's or DVOG's income or assets for fiscal years '96 or '97 would in fact have caused any covenant violations?
A. I don't know.
Q. Do you personally know what steps, if any, any creditor of AHERF or its affiliates would in fact have taken in response to learning of a covenant violation?
A. I don't know. If you're talking about

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creditors including PNC, I, again, go back to my earlier comment of much more difficult and attentive, you know, discussion around waivers.
Q. Would your answer still be that you can't say what specific actions PNC would in fact have taken?
A. Only by virtue of the fact that it -- since it didn't happen, I can't tell you exactly what we would have done. I can tell you that in a general sense we would have gone in and worked very closely, you know, with the company to shore up their operating cash flow which could have included the introduction of a crisis manager, for instance, as a mechanism to try and preserve and ultimately build -- preserve cash in and ultimately build the cash flow of, you know, the AHERF entity.
Q. What's a crisis manager?
A. Crisis manager would be a consultant experienced in turnarounds.
Q. Was any recommendation ever made with respect to AHERF as things actually unfolded in terms of appointing a turnaround expert or consultant of some sort?
A. That's really a question for Tom Mc Cool.
Q. Have you ever had any role or involvement

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or did you ever have any role or involvement as CEO of the corporate banking area in appointing a turnaround expert or consultant?
A. Yes. We -- that's -- and actually Tom Mc Cool does that, but that's a fairly standard practice, you know, within the commercial banking industry and introducing crisis managers hired by the company, you know, for -- to -- to work -- to bring about financial resolution.
Q. Once as you mentioned some of the problems at AHERF became apparent to people at PNC, do you know if in fact someone was hired as a turnaround consultant?
MS. HACKETT: I believe you asked him that.
MR. TERUYA: I asked if there was any consideration of it, and he said Tom Mc --
MS. HACKETT: Yeah. Okay.
THE WITNESS: And same answer. I just don't know whether it happened or not.
MR. TERUYA: Okay.
Q. In addition to the possibility of hiring a crisis manager, are there any other specific steps that you know PNC would in fact have taken or might have taken?
A. Well, there are a whole host of steps that

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are really driven by the particular circumstances at the time.
Q. Can you say what the effects in fact would have been of any of those particular steps?
A. Historically, you know, those are very successful at preserving cash in the estate, enhancing the liquidity of the enterprise and, in many cases, averting bankruptcy.
For instance, to -- and we talked earlier about, you know, money that in hindsight looks silly, corporate boxes at stadiums, et cetera. A crisis manager would come in, identify that and eliminate it, and that cash, therefore, never gets spent. So that's the sort of thing that can occur.
Q. And do you know what in fact would have been the outcome of any such steps in this instance with respect to AHERF?
A. I don't know because again we didn't have the opportunity to do that.
Q. Who are the crisis managers, if you know, that PNC deals with?
A. Again, I'd refer you to Tom Mc Cool because he's the actual party in charge there.
Q. Do you personally know what steps, if any, any creditor of AHERF or its affiliates, including

PNC, would in fact have taken in the event that a default would have been declared?

A. Again, I don't know with absolute certainty, but it would run the range, you know, from -- if an event of default had been declared, my guess is it would be acceleration.

Now, if an event had been -- had been threatened but not declared, it might be different.

Q. Are you equating the event of default being declared or an event of default being declared an indecision to accelerate?

A. Well, the -- if you think through the chain of events, a situation occurs, a default occurs which can go, you know, one of three ways: It can be cured; it can be waived, or it can be declared. I took your question from the very narrowest sense because once declared, it means, typically, that you and the borrower have acknowledged that you're going to disagree, and, you know, that you're not willing to work together and in a high percentage of declared defaults, you know, there is an acceleration. So it may simply be the form of the question that you asked. If the -- and again, I go back to that event of default which can be dealt with in one of three ways.

Q. Okay. So like a lower case e, lower case d, event of default, it could be dealt with in three possible ways?

A. Yes.

Q. One of which is to declare a formal capital E, capital D event of default?

A. Correct.

Q. And then likely to accelerate?

A. Right.

Q. Do you know if there are possible remedies or steps that PNC could take, competing steps PNC could take once a formal event of default is declared?

A. There are, but they're relatively limited, you know. That's -- the declaration of a formal event of default is a very serious issue.

Q. Do you know whether during calendar '98 before the bankruptcy any other creditors of AHERF or its affiliates declared a formal event of default?

A. I don't know.

Q. Do you know what steps, if any, PNC would in fact have taken if another entity creditor had declared a formal event of default?

A. I don't know because I don't know the answer to the first question, so that's --

Q. Okay.

Do you personally know what steps, if any, any creditor of AHERF or its affiliates would in fact have taken if Coopers & Lybrand had issued an unqualified opinion on any AHERF or DVOG financial statements?

A. An unqualified opinion?

Q. I'm sorry. A qualified opinion.

A. I thought so, because I didn't --

Q. I'm sorry.

A. Yes. At that point that is a severe red flag, you know. It is -- I can't recall in my career, you know, where I have made a loan or approved a loan to an entity -- a new loan. And sometimes you have to renew loans that are outstanding, but a new loan to an entity that has a qualified opinion.

The -- we would have immediately, had we even considered -- continued to consider extending credit, you know, we would have immediately contacted with the company's approval Coopers and tried to get to the very bottom of what it was, you know, that caused them to issue that qualified opinion, you know.

It's -- it's challenging to me to think

that there would have been an outcome there that would have -- that we would have continued to pursue.

Now, concurrently, had there been a qualified opinion, the credit never would have gotten investment grade status from Moody's and Standard & Poors, and that -- if you think back to my earlier comments, the two of the necessary conditions for me to sign approving this, one was an investment-grade status, and the other was an unqualified opinion. The absence of one brings about the absence of the other in that order. I'm sorry. In that reverse order.

The absence of the unqualified opinion brings about the absence of the investment-grade rating, and it's a nonstarter.

Q. Do you have any understanding of what was the chronological relationship between Coopers & Lybrand's issuance of an audit opinion on the fiscal year '96 financial statements of AHERF and its affiliates with respect to the approval decision?

A. No. That -- I think that was asked previously, and I do not.

Q. Do you personally know what the effects of any steps that any creditor of AHERF or its affiliates could have taken in response to a -- to

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learning of a GAP violation would have been?
A. It would be speculative on my part.
Q. Do you personally know what would the effect have been of any steps of any creditor of AHERF or its affiliates could have taken in response to learning of any material misstatement in the financial statements of AHERF or any of its affiliates?
A. Well, the -- let me ask, are you including any creditor, including PNC?
Q. Yes.
A. You've asked that in some questions and not others.
The -- then let me amend that because either a GAP violation or, you know, a material misstatement would likely be a violation of the covenants which again, as you know, I'm no expert in the documentation of this particular transaction, but as part of boilerplate, you know, you would have material misstatement and GAP violations, typically, you know, and that would have led to a covenant default, you know, and -- or the existence of an event of default that could have been declared a capital letters event of default and with the potential for acceleration thereafter.

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Q. Do you know what would in fact have been the particular steps PNC or other creditors would have taken in response to learning of GAP violations or material misstatements?
A. I can't --
MS. HACKETT: Other than what he's already testified to?
THE WITNESS: Yeah. That's really kind of the same thing I just said, you know. The -- there would have been a very intensive, you know, discussion with the company and with Coopers & Lybrand, you know, and the -- you know, the potential, you know, for the declaration of an event of default, you know, out of -- capital letters event of default out of that condition of default.
BY MR. TERUYA:
Q. Do you know what the effect would have been of any steps that could have been taken?
A. The -- I don't know specifically, but, you know, again, probably a restructuring of the credit, the hiring of a crisis manager, potentially, you know. A step along those lines.
Q. Do you know whether a crisis manager in fact would have been able to successfully avert AHERF's bankruptcy?

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A. I don't know whether a crisis manager would have been able to avert the bankruptcy, but I'm highly confident a crisis manager would have caused the creditors to result in a higher realization on their claims. That -- of that I have a very, very high degree of confidence.
Q. What's the basis for your belief?
A. His- -- just seeing countless situations of similar nature. Professional experience.
Q. What -- do you have any sense of what the quantitative effects would have been in terms of realization by creditors?
A. I'm not close enough to it to know.
Q. Do you personally know what would have been the quantitative effect of any steps that PNC or other creditors could have taken in response to learning of material misstatements or GAP violations?
A. It would be speculation on my part.
Q. Did you ever perform any studies or do you know of anyone performing any studies of what creditors' recovery could have been under different scenarios as things unfolded at AHERF?
A. I'm not aware of any. Doesn't mean they don't exist.
Q. Do you personally know what the particular

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consequence is -- actually, let me strike that.
Do you personally know whether the term "unrestricted fund balance" in any letter of credit agreement between PNC and AHERF in fact excludes intercompany loans?
MS. HACKETT: Can I have that back, please?
BY MR. TERUYA:
Q. Do you personally know whether the term "unrestricted fund balance" in any letter of credit agreement between PNC and AHERF in fact excludes intercompany loans?
MS. HACKETT: Objection. Lack of foundation. He has to look at the documents to know that.
THE WITNESS: You took the words out of my mouth.
MS. HACKETT: There you go.
THE WITNESS: I would not have used "objection" and "foundation," but I am not familiar with the letter of credit documents.
BY MR. TERUYA:
Q. And therefore you don't know?
A. Therefore I don't know.
Q. Do you personally know the present extent of the bankrupt AHERF's estate's net in solvency?

A. No.
Q. Do you know who was charged, if anyone, with monitoring that -- the present extent of the bankrupt estate's net in solvency?
A. No.
MS. HACKETT: I was going to say you mean PNC or beyond that, but I don't think he knows either way.
MR. TERUYA: I just meant PNC.
THE WITNESS: No.
BY MR. TERUYA:
Q. Have you had any conversations with any lawyers with Jones Day before this deposition?
A. No.
MS. HACKETT: Relating to the deposition; correct?
MR. TERUYA: Yeah. In relating to the deposition.
THE WITNESS: No. I was going to say I had a conversation with Mickey Pohl, I think, back in 1994, but it wasn't about AHERF.
BY MR. TERUYA:
Q. Did you have any conversations with anyone else about this deposition before the deposition?
A. No.

MS. HACKETT: Other than me.
THE WITNESS: I'm sorry. Exactly. That's right.
MS. HACKETT: Other than me.
THE WITNESS: I'm sorry.
BY MR. TERUYA:
Q. Did you meet with anyone from Reed Smith in preparation for this deposition?
A. Yes. I met with Mary yesterday for an hour or less.
Q. Anyone else?
A. No.
Q. And other than your meeting for an hour or less, did you have any other conversations with anyone from Reed Smith?
A. No.
Q. Do you have any present plan to testify at any trial in this case?
A. I sure hope not.
Q. Are you involved in this litigation in any way other than testifying at this deposition?
A. No.
Q. Have you ever had any discussions with anyone about this litigation? Just "yes" or "no."
A. No.

Q. And do you know if your -- going back to that question I asked you earlier. Do you know if your stock holdings were ever publicly-disclosed in any of PNC's public filings?
A. They're -- I know that they are disclosed and vastly overstated, you know. And when I say this, because you'll find it anyway, if you go to Yahoo, for instance, you'll find a form 4 filing that they pick up that includes, you know, some restricted stock that by virtue of leaving PNC I did not collect. So, you know, I think that's still out in the public domain, and it's not correct. I wish it was. Man, do I wish that.
Q. You told me --
MR. TERUYA: Actually, can we take a quick break? I just want to look at my notes. I think we're done.
MS. HACKETT: Sure. Sure.
THE WITNESS: Yes.
THE VIDEOGRAPHER: The time is 3:35 p.m. We're off the record.
(Whereupon a break was taken.)
THE VIDEOGRAPHER: Time is 3:43 p.m. We're back on the record.
BY MR. TERUYA:

Q. I want to just ask a few -- a couple more questions that I skipped over.
Do you personally know the effect of any steps that any creditor of AHERF or its affiliates, including PNC, could have taken in response to learning of covenant noncompliance by AHERF or its affiliates?
MS. HACKETT: Objection. Wasn't that asked and answered --
MR. TERUYA: I asked about GAP violations and material misstatements.
Q. If you're answer would be the same --
A. Yeah.
Q. Do you personally know the effect of any steps that any creditor of AHERF or its affiliates, including PNC, could have taken if any event of default had been declared?
MS. HACKETT: Objection. Asked and answered.
BY MR. TERUYA:
Q. Same answer?
A. Yeah. Same answer.
Q. Can you tell me what were the circumstances of your departure from PNC?
A. The -- a relatively complex set of

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In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS

THOMAS MCCOOL
October 28, 2003

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MCCOOL, THOMAS - Vol. I

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it was going to be a, you know, real problem.
Q. What were MBIA's stated concerns about a bankruptcy filing?
A. That the company was going to sell. If it sold, it would only sell in the east and would leave them in the west, and they weren't going to get very much money out of the east.
Q. Was there any concern that was stated to you by MBIA about just the fact of a bankruptcy filing occurring?
A. I think they're generally scared to death of them; but, you know, they seemed to act as if they would do almost anything to avoid a bankruptcy.
Q. Did anyone from MBIA ever express to you any views on why representatives of MBIA wanted to avoid a bankruptcy?
A. Not specifically. It was certainly part of the discussions we had at the various meetings we had with the company.
Q. With MBIA?
A. And MBIA. But they're an insurance company; we're a bank. We're different.
Q. Did you have any involvement with operations at AHERF after the time of its bankruptcy?

A. No. You mean in terms of day-to-day operations?
Q. Overseeing its day-to-day operations and what it was doing?
A. No.
Q. Did anyone at PNC, to your knowledge?
A. Not -- except through the committee, to the extent the committee was involved, the unsecured committee.
Q. Do you know if any representatives of the committee or PNC observed what operations were going on at AHERF after the bankruptcy?
A. You're going to have to define "operations" for me.
Q. I just mean like in terms of how the hospitals were doing and what kinds of management decisions were being made to preserve value.
A. You mean financial reports or cash flow reports or --
Q. No, I mean actual operations of the hospitals like how the sale process was going, how, you know, the doctor and patient situation that you described was being handled, how the faculty situation was being handled, et cetera.
A. Did we oversee it?

Q. Are you aware of anyone at PNC --
A. Are you talking about overseeing in terms of managing? That's what an overseer is. What do you mean?
Q. Did anyone monitor, anyone at PNC or any members of the creditors' committee, monitor the operations of the AHERF hospitals?
A. Generally we had regular meetings with our advisors and accountants, we met with the company's advisors and accountants, and we met with the company on a regular basis.
Q. Do you recall ever learning of any problems that AHERF was facing in terms of attempting to sell the eastern region hospitals after the bankruptcy?
A. Yeah, a whole series of them. It's almost impossible to enumerate all of them.
Q. Do you recall ever hearing that there was any problem in terms of managing the due diligence process with respect to the hospitals?
A. That was one of them.
Q. Do you recall ever hearing that --
A. I actually caused a good bit of that, thank you.
Q. You how was that?

A. Because I know what a due diligence process is supposed to entail. In large part, it's an establishment of a data center and a data room, whether it's at one of the hospitals or one room at all of the hospitals. These guys didn't have anything like that.
Q. AHERF management did not?
A. No.
Q. Who was running the due diligence process at AHERF?
A. In large part it was Tony and Joe Dionisio, I think, and they may have designated other people, but we thought they were generally responsible for it.
Whether they had the Hunter Group --
I think they confined the Hunter Group, as I recall, to more or less the day-to-day hospital operations, and they were going to take care of the sale themselves; but I remember specifically asking them to take me to the data room.
Q. Did you view it as a mistake that prior to that time AHERF management had not created a data room where all the documents were kept?
A. It may or may not be characterized as a

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mistake, but I'm unaware of any corporate sale that has ever taken place without one.
Q. Do you recall having any concerns about any of management's conduct in running the sale process and due diligence process with respect to the eastern regional hospitals after the bankruptcy other than what you just mentioned?
A. I just thought from the committee's standpoint, this was not a well-oiled machine --
Q. What do you mean by that?
A. -- in any sense.
They simply didn't approach the tasks they were charged with as professionally -- or with professional advice.
Whatever they did, they didn't seem to do very well.
Q. Did you think there was any problem with the fact that AHERF had not approached other potential buyers other than Vanguard and Tenet prior to the bankruptcy?
MR. COGAN: Objection.
THE WITNESS: I don't know whether that may or may not have been a root cause of the basic problem. I don't think limiting it to two --

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They could have had ten.
BY MR. TERUYA:
Q. They just weren't handling the process well?
A. I didn't think so.
Q. Did you or any other representatives of MBIA or the committee ever take any steps to intervene in terms of management's conduct in running the sale and due diligence process other than what you said about asking that a data room be created?
A. I think we made suggestions and comments, but as creditors and ultimately even as members of the unsecured creditors' committee, this isn't a process where you can simply step in ala the European process, damn it, step in and just take over and do it yourselves.
This arrangement and this legal system simply doesn't permit that to occur. We can have opinions; we can even express those opinions, but whether they have effect on the parties to whom we're expressing them, though, is a different story.
Here, they apparently had little effect.
Q. If an event of formal default had been declared

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by PNC, could PNC then have forced management to make certain decisions with respect to the sale process?
A. To the extent that it would have caused them to end up in the bankruptcy sooner, I don't think it would have had substantial effect, because they still would have been in place. They still would have been the same people.
Q. After PNC declares an event of default in terms of the available remedies that PNC has, can PNC force management of a borrower to make certain decisions at that point?
A. We can negotiate it for that.
Q. I'm sorry?
A. We can negotiate for that outcome; but in terms of forcing it as if forcing it will lead to its implementation, no, that's not how it works.
Q. Can PNC ever force management to make certain decisions in terms of the rights it has available to it under the letters of credit agreement?
A. We have made it a --
We have done it in the past where we requested or required that for, say, new money advances that the company would alter

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management, change management, hire a crisis manager, take steps like that; and sometimes we get what we want, and sometimes we don't.
Q. It's still a negotiated process even in instances like that?
A. Unfortunately, given the U.S. legal system, it's still a negotiated process, yes.
It's one of the flaws here, that and the elimination of debtors' prison, but that's just me.
Q. I'm sorry. That and what?
A. The elimination of debtors' prisons, but that's just me.
Q. Do you have any understanding of whether there was a refinancing of AHERF's -- or AGH's bonds at some point in time after the bankruptcy filing by AHERF?
A. No, there was a refinancing of the West Penn bonds and then a refinancing -- or reissuance of certain of the AGH bonds as part of the West Penn transaction.
Q. So is it your understanding that the AGH bonds were defeased using the proceeds of the West Penn bond offer?
A. No.

Q That's not your understanding?
A No.
Q Do you have any understanding of whether AGH bondholders have been repaid?
A. I believe they have.
Q. Did PNC suffer any losses with respect to the AGH Obligated Group letters of credit?
A. Yes, we did
Q. What losses were suffered?
A. In rough terms, I'm trying to recall, but it would have been somewhere on the order of $13 million to $14 million.
Q. And what constituted those losses?
A. The repayment of the bondholders under our letter of credit, and the refinance -- the purchase combination of West Penn and AGH and the amount of money we actually received in that transaction.
Q. So even after the West Penn bond offering, AGH Obligated Group still didn't have enough money to repay the bondholders Is that what you're saying?
A. That's right
Q. Was the AGH Obligated Group able to repay the bondholders to some extent?

A. The bondholders were paid in full. They had an LC
Q. A letter of credit?
A. We, as the letter of credit holder, were not paid in full, because we paid the bondholders; but AGH did not pay us the full amount.
Q. Okay So the total magnitude of the AGH letters of credit, as we've seen, was far in excess of $13 million. Right?
A. Our share of that was roughly $44 million
Q. $44 million Okay.
A. Yes
Q. And you, PNC, recovered the amount of the letters of credit except for $13 million to $14 million Correct?
A. The way the deal was structured in the West Penn transaction is we received two-thirds in cash, and we received one-third in a very soft, very subordinated note, which we value at zero.
Q. And what is the purpose of that note?
A. Actually, you'd have to ask Morgan. They wanted it more than I did.
Q. Do you know if that note is supposed to --

Well, let me rephrase that Who still owes PNC the $13 million to $14 million?

A. West Penn/Allegheny Health System
Q. And what are the terms of that -- or what is the nature of that obligation of West Penn to PNC?

MS. HACKETT: What do you mean "nature"?

MR. TERUYA: How is it that West Penn --

MR. COGAN: A subordinated note.

THE WITNESS: Yes. It's a very subordinated note.

MR. TERUYA: So West Penn currently doesn't have enough money to pay PNC. Is that --

MS. HACKETT: Currently? You mean as of today?

MR. TERUYA: Well, at the time whenever this occurred, whenever the bond offering occurred and PNC ended up being owed $13 million to $14 million. I'm just trying to understand why is it --

THE WITNESS: I would have to go through the whole structure of the West Penn/Allegheny merger, but in summary form, Highmark advanced $125 million to West Penn in

the form of bridge financing to assure the liquidity of the overall system which is first as to priority in payment of West Penn/Allegheny Health System, which is the combined entity

The next is the refinanced MBIA bonds, as well as additional amounts that were issued in order to make a cash payment to PNC, Sumitomo, and Morgan, all of whom received roughly two-thirds of their obligation in cash and the other one third in junior notes that are subordinated first to the $125 million in Highmark debt and next to the $300 million or $400 million of MBIA, slash, bondholder debt; and then there's about $43 million in total of these what are called -- I forget. I think the name we came up with actually were FRRCs, floating rate restructuring certificates.

BY MR. TERUYA:
Q. So currently right now the sum of that is that PNC is owed $13 million to $14 million from West Penn and --
A. West Penn/Allegheny Health System.
Q. And a note has been tendered or provided by that system to PNC?